11-1-1. Auditor's certificate to show obligation within debt limit.

The county auditor of each county, the auditor of each city, and the clerk of each board of education in this state shall endorse a certificate upon every bond, warrant or other evidence of debt, issued pursuant to law by any such officer, that the same is within the lawful debt limit of such county, city or school district, respectively, and is issued according to law. He shall sign such certificate in his official character.

No Change Since 1953

11-1-2. Auditors may rely on certain facts.

Whenever a county legislative body, board of city commissioners, city council, or board of education of any such county, city, or school district shall find or declare that any appropriation or expenditure for which a warrant or warrants are to be issued was or is for interest upon the bonded debt, for salaries, or for the current expenses of such county, city, or school district, such finding or declaration shall conclusively protect the county auditor, city auditor, or clerk of the board of education of any such county, city, or school district, as to such facts, in certifying any warrant or warrants therefor to be within the lawful debt limit of such county, city, or school district.

Amended by Chapter 227, 1993 General Session

11-1-3. False certificate -- Class A misdemeanor.

Any person mentioned in Section 11-1-1 who neglects to endorse any certificate as required, or who makes any certificate falsely and fraudulently, is guilty of a class A misdemeanor.

Amended by Chapter 178, 1986 General Session

11-1-4. Sinking fund -- Investment.

The legislative body of any county, municipality, school district, or taxing unit of Utah shall invest any sinking fund created by authority of law by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act.

Amended by Chapter 285, 1992 General Session

11-1-5. Form, time, and place of payment -- Held in trust.

Whenever any county, municipality, school district or taxing unit within this state is authorized to issue and sell its bonds, they may be issued in serial form or in the form of term bonds and made payable in such manner and at such times, within legal limits, as such county, municipality, school district or taxing unit may determine. Principal and interest shall be made payable only at a duly incorporated bank or trust company operating under state or national banking laws or principal and interest may be made payable at such a bank or trust company or at the office of the treasurer of the issuer, at the option of the holder; provided, such alternative places of payment are designated in the bonds by the issuer at the time such bonds are issued.

All payments of funds either as principal or interest on any bonds issued by any

county, municipality, school district or other taxing unit within this state paid to anyone other than the owner of such bonds shall be regarded and held as trust funds, and the person, firm or corporation so receiving the same shall be held as a trustee of such funds holding the same for the benefit of the owners and holders of such bonds until the same are fully paid over. Until such funds are paid over by the person, firm or corporation collecting the same, they shall be set up and held in a separate trust account and not commingled or used by the collector in any manner whatever.

No Change Since 1953

11-1-6. Violation of act a misdemeanor.

Anyone violating the provisions of this act shall be guilty of a misdemeanor.

No Change Since 1953

11-2-1. Local authorities may designate and acquire property for playgrounds and recreational facilities.

The governing body of any city, town, school district, local district, special service district, or county may designate and set apart for use as playgrounds, athletic fields, gymnasiums, public baths, swimming pools, camps, indoor recreation centers, television transmission and relay facilities, or other recreational facilities, any lands, buildings or personal property owned by such cities, towns, counties, local districts, special service districts, or school districts that may be suitable for such purposes; and may, in such manner as may be authorized and provided by law for the acquisition of lands or buildings for public purposes in such cities, towns, counties, local districts, special service districts, and school districts, acquire lands, buildings, and personal property therein for such use; and may equip, maintain, operate and supervise the same, employing such play leaders, recreation directors, supervisors and other employees as it may deem proper. Such acquisition of lands, buildings and personal property and the equipping, maintaining, operating and supervision of the same shall be deemed to be for public, governmental and municipal purposes.

Amended by Chapter 329, 2007 General Session

11-2-2. Entertainment facilities for citizenry.

Such local authorities may organize and conduct plays, games, calisthenics, gymnastics, athletic sports and games, tournaments, meets and leagues, dramatics, picture shows, pageants, festivals and celebrations, community music, clubs, debating societies, public speaking, story telling, hikes, picnics, excursions, camping and handicraft activities, and in areas so remote from regular transmission points of the large television stations that television reception is impossible without special equipment, and adequate, economical and proper television is not available to the public by private sources, said local authorities may equip and maintain television transmission and relay facilities and other forms of recreational activity that may employ the leisure time of the people in a constructive and wholesome manner.

Amended by Chapter 4, 1993 General Session

11-2-3. Recreation board.

Authority to supervise and maintain any of such recreational facilities and activities may be vested in any existing body or board, or in a public recreation board, as the governing body of any city, town, county or school district may determine. If it is determined that such powers are to be exercised by a public recreation board, such board may be established in any city, town, county or school district and shall possess all the powers and be subject to all the responsibilities of the respective local authorities under this chapter.

No Change Since 1953

11-2-4. Number of members of board -- Selection -- Term.

(1) A recreation board shall consist of between five and seven persons.

(2) (a) When established in a city of the first or second class two members shall be selected from the board of education of the school district therein, and when established in any county two members shall be appointed from the board of education of that county; provided, that in counties having two or more school districts one member shall be appointed from each county school district therein.

(b) In any county having a regional service area and a recreation board consisting of more than five members, one of the members shall be appointed from the regional service area.

(3) (a) The members of the board shall be appointed by the appointing authority of the county, municipality, school district, or regional service area and shall serve for a term of five years and until their successors are appointed; and

(b) provided, that the members first appointed shall be appointed for such terms that the term of one member will expire annually thereafter except that the terms of two members may expire during the same year when more than five members are appointed.

(4) Vacancies in a board occurring otherwise than by expiration of term shall be filled in the same manner as original appointments for the unexpired term. The members of recreation boards shall serve without compensation.

Amended by Chapter 216, 1995 General Session

11-2-5. Chairman, secretary and other officers of board.

Each recreation board shall elect its own chairman and secretary, and shall appoint all other officers necessary, for a period of one year; and may adopt rules and regulations for the conduct of its business.

No Change Since 1953

11-2-6. Cooperation between school districts and cities, towns and counties.

Any board of education of any school district may join with any city, town or

county in purchasing, equipping, operating and maintaining playgrounds, athletic fields, gymnasiums, baths, swimming pools, television transmission and relay facilities of the type referred to in Section 11-2-2 and other recreational facilities and activities, and may appropriate money therefor.

Amended by Chapter 22, 1957 General Session

11-2-7. Expenses -- Payment of -- Authority to appropriate and tax -- Licensing of television owners and users -- Collection of license fees.

(1) (a) All expenses incurred in the equipment, operation and maintenance of such recreational facilities and activities shall be paid from the treasuries of the respective cities, towns, counties, or school districts.

(b) Except as provided in Subsection (3), the governing bodies of the same may annually appropriate, and cause to be raised by taxation, money for such purposes.

(2) In areas so remote from regular transmission points of the large television stations that television reception is impossible without special equipment and adequate, economical and proper television is not available to the public by private sources, said local authorities may also, by ordinance, license, for the purpose of raising revenue to equip, operate and maintain television transmission and relay facilities, all users or owners of television sets within the jurisdiction of said local authorities, and may provide for the collection of the license fees by suit or otherwise and may also enforce obedience to such ordinances with such fine and imprisonment as the local authorities consider proper; provided that the punishment for any violation of such ordinances shall be by a fine not exceeding $50 or by imprisonment not exceeding one day for each $5 of said fine, if the fine is not paid.

(3) Beginning January 1, 2012, a local school board may not levy a tax in accordance with this section.

Amended by Chapter 371, 2011 General Session

11-2-8. Donations.

The governing body in any city, town, county or school district may take charge of and use any grounds, buildings or other facilities which may be offered, either temporarily or permanently, by any individual or corporation for playground and recreation purposes; and may receive donations, legacies, bequests or devises for the establishment, improvement or maintenance of recreational facilities and activities. All money so received shall, unless otherwise provided by the terms of the gift or devise, be deposited in the treasury of the city, town, county or school district to the credit of the recreation fund, and may be withdrawn only in the manner provided for the payment of money appropriated for the acquisition, improvement, operation and maintenance of playgrounds and other recreational facilities and activities.

No Change Since 1953

11-3-1. Short title.

This chapter is known as the "County and Municipal Fireworks Act."

Amended by Chapter 234, 1993 General Session

11-3-3.1. Definitions.

The definitions in Section 53-7-202 apply to this chapter.

Enacted by Chapter 234, 1993 General Session

11-3-3.5. Licensing of retail sellers of fireworks -- Permit required -- Fee, insurance, or bond.

(1) (a) A municipality or county may require a retail seller to obtain a license and pay a reasonable fee before selling class C common state-approved explosives within the jurisdiction of that municipality or county.

(b) A municipality or county may not restrict the number of licenses to be issued under this section.

(2) (a) A municipality or county shall require:

(i) a permit to discharge all display fireworks, special effects, and flame effects performances; and

(ii) evidence that the display operator, special effects operator, or flame effects operator who will set up and discharge the display has received a license from the State Fire Marshal Division, Department of Public Safety.

(b) A municipality or county may require a fee, insurance, or a bond before issuing a permit under this Subsection (2).

Amended by Chapter 61, 2010 General Session

11-3-4. Enforcement -- Seizure of fireworks sold unlawfully -- Revocation of license.

(1) Each county and municipal officer charged with the enforcement of state and municipal laws, including all fire enforcement officials and the State Fire Marshal Division of the Department of Public Safety, shall enforce this chapter and Sections 53-7-220 through 53-7-225, Utah Fireworks Act.

(2) Any official charged with enforcing this chapter and the Utah Fireworks Act may:

(a) seize display fireworks, fireworks, and unclassified fireworks that are offered for sale, sold, or in the possession of an individual in violation of this chapter or the Utah Fireworks Act; and

(b) recommend to the state fire marshall that each importer or wholesaler selling or offering to sell display fireworks, fireworks, or unclassified fireworks in violation of this chapter or the Utah Fireworks Act have his license revoked.

Amended by Chapter 234, 1993 General Session

11-3-8. Conflicting local ordinances prohibited.

A county, city, or town may not adopt an ordinance or regulation in conflict with Sections 53-7-220 through 53-7-225.

Amended by Chapter 234, 1993 General Session

11-3-10. Exemptions -- Limitation on chapter.

(1) This chapter does not apply to class A, class B, and class C explosives that are not for use in Utah, but are manufactured, stored, warehoused, or in transit for destinations outside of Utah.

(2) This chapter does not supersede Section 23-13-7, regarding use of fireworks and explosives by the Division of Wildlife Resources and federal game agents.

(3) Provided that the display operators are properly licensed as required by Section 53-7-223, municipalities and counties for the unincorporated areas within the county may conduct, permit, or regulate:

(a) exhibitions of display fireworks; or

(b) pyrotechnic displays held inside public buildings.

Amended by Chapter 234, 1993 General Session

11-3-11. Sale or use of unauthorized fireworks -- Class B misdemeanor.

Any person who violates this chapter is guilty of a class B misdemeanor.

Amended by Chapter 268, 1992 General Session

11-4-2. Duty of local governing body -- Maintenance of existing equipment.

(1) Each local governing body installing any completely new fire protection system shall comply with Title 53, Chapter 7, Utah Fire Prevention and Safety Act.

(2) A local governing body operating fire protection equipment may maintain, repair, replace, and extend the equipment with equipment of like character and standards.

Amended by Chapter 234, 1993 General Session

11-6-1. Records to be kept -- Availability to peace officers.

Pawnbrokers and dealers in secondhand goods shall keep records containing a description of all articles received by them, the amounts paid therefor or advanced thereon, a general description of the person from whom received, together with his name and address and the date of the transaction. Such records shall at all reasonable times be accessible to any peace officer who demands an inspection thereof, and any further information regarding such transaction that he may require shall be given by pawnbrokers and secondhand dealers to the best of their ability. In cities of the first and the second class at the close of each day's business pawnbrokers shall mail a copy of such records to the sheriff of the county in which they are located.

No Change Since 1953

11-6-3. Violation a misdemeanor.

A violation of any of the provisions of this chapter is a misdemeanor.

No Change Since 1953

11-6-4. Political subdivisions may not set interest rates.

No county, city, town, or other political subdivision may set the interest rates or other charges which pawnbrokers may charge.

Enacted by Chapter 55, 1985 General Session

11-7-1. Cooperation with other governmental units -- Burning permits -- Contracts.

(1) The governing body of every incorporated municipality and the board of commissioners of every county shall provide adequate fire protection within their own territorial limits and shall cooperate with all contiguous counties, municipal corporations, private corporations, fire districts, or federal governmental agencies to maintain adequate fire protection within their territorial limits.

(2) Every incorporated municipality and every county may:

(a) require that persons obtain a burning permit before starting a fire on any forest, brush, range, grass, grain, stubble, or hay land, except that a municipality or county may not require a burning permit for the burning of fence lines on cultivated lands, canals, or irrigation ditches, provided that the individual notifies the nearest fire department of the approximate time that the burning will occur;

(b) maintain and support a fire-fighting force or fire department for its own protection;

(c) contract to furnish fire protection to any proximate county, municipal corporation, private corporation, fire district, state agency, or federal agency;

(d) contract to receive fire protection from any contiguous county, municipal corporation, private corporation, fire district, state agency, or federal governmental agency;

(e) contract to jointly provide fire protection with any contiguous county, municipal corporation, private corporation, fire district, state agency, or federal governmental agency; or

(f) contract to contribute toward the support of a fire-fighting force, or fire department in any contiguous county, municipal corporation, private corporation, fire district, state agency, or federal governmental agency in return for fire protection.

Amended by Chapter 175, 1986 General Session

11-7-2. Contract -- Requirements -- Time in effect.

Any contract made pursuant to Section 11-7-1 shall:

(1) Be in writing.

(2) Set forth in detail the extent of the fire protection to be afforded by the party or parties contracting to furnish fire protection.

(3) Set forth in detail the amount and method of payment to be made by the party or parties.

(4) Be in effect for at least one year but not more than five years.

Enacted by Chapter 19, 1957 General Session

11-7-3. Privileges and immunities from liability extend to departments fighting fires outside territorial limits under contract.

All the privileges and immunities from liability which surround the activities of any county or municipal corporation fire-fighting force or fire department when performing its functions within the governmental unit's territorial limits shall apply to the activities of that governmental unit's fire-fighting force or department while furnishing fire protection outside its territorial limits under any contract pursuant to Section 11-7-1.

Enacted by Chapter 19, 1957 General Session

11-7-4. Death or injury of fireman while fighting fire outside territorial limits.

The effect of the death or injury of any fireman who is killed or injured outside the territorial limits of the county or municipality where he is a member of the fire-fighting force or fire department and while that force or department is functioning pursuant to any contract made under Section 11-7-1 shall be the same as if he were killed or injured while that force or department was functioning within its own territorial limits, and his death shall be considered in the line of duty.

Enacted by Chapter 19, 1957 General Session

11-8-1. Contracts for joint use, operation, and ownership of sewage lines and sewage treatment and disposal systems.

Any county, incorporated municipality, improvement district, taxing district or other political subdivision of the state of Utah which now or hereafter owns and operates sanitary sewer facilities (each of which is hereinafter referred to as a "public owner") is hereby granted authority:

(1) To enter into long-term contracts with any other public owner or public owners pursuant to which sewage lines, sewage treatment and sewage disposal facilities, or any part thereof, of one or more public owners shall be available for collection, treatment and disposal, or any part thereof, of the sewage collected by one or more other public owners, or of sewage collected jointly, pursuant to such terms and conditions and for such consideration as may be provided in such contracts. Annual payments due by any such public owner for services received under any such contract may not be construed to be an indebtedness of such public owner within the meaning of any constitutional or statutory restriction, and no election shall be necessary for the authorization of such contract. Any public owner or owners so contracting to make available sewage collection, sewage treatment and disposal facilities, or any part thereof, may in any such contract agree to make available to such other public owner or owners a specified part of its facilities, without regard to its future need of such specified part for its own use, and may in such contract agree to increase the capacity of its facilities from time to time in the future if necessary in order to take care of its own needs and to perform its obligations to the other parties to such contract.

(2) To construct or otherwise acquire joint interests in, and to own jointly, sewer lines, sewage treatment and disposal facilities, or any part thereof for their common use. To such end, any public owner may sell to any other public owner or owners a partial interest or interests in any of its sewer lines, sewage treatment and disposal facilities. Any public owner may issue its bonds for the purpose of acquiring such joint interest in sewer lines, sewage treatment and disposal facilities, or any part thereof, whether such joint interest is to be acquired through the construction of new facilities or the purchase of such interest in existing facilities, which bonds may be issued under the provisions and in the manner provided in any available law authorizing the issuance of bonds for the acquisition of sanitary sewer facilities by such public owner.

(3) To operate jointly with any other public owner or owners, sewer lines, sewage treatment and disposal facilities, or any part thereof, which they may own jointly.

Amended by Chapter 378, 2010 General Session

11-8-2. State loans for sewage treatment facilities -- Rules of Water Quality Board.

The Department of Environmental Quality is authorized to negotiate loans to political subdivisions and municipal authorities for the construction, reconstruction, and improvement of municipal sewage treatment facilities. All loans shall be made pursuant to rules made by the Water Quality Board and not exceed 25% of the total cost of the facility. The loans shall be authorized by the political subdivision involved pursuant to Title 11, Chapter 14, Local Government Bonding Act, or other applicable law of this state pertaining to indebtedness of political subdivisions.

Amended by Chapter 105, 2005 General Session

11-8-3. Department of Environmental Quality to negotiate loans for sewage facilities.

(1) The Department of Environmental Quality may negotiate loans from the Retirement Systems Fund, State Land Principal Fund, Workers' Compensation Fund, or any state trust and agency fund which has sums available for loaning, as these funds are defined in Title 51, Chapter 5, Funds Consolidation Act, not to exceed $1,000,000 in any fiscal year for the purposes of providing the funding for the loans provided for in Section 11-8-2.

(2) The terms of any borrowing and repayment shall be negotiated between the borrower and the lender consistent with the legal duties of the lender.

Amended by Chapter 222, 2000 General Session

11-10-1. Business license required -- Authorization for issuance, denial, suspension, or revocation by local authority.

(1) As used in this chapter, the following have the meaning set forth in Section 32B-1-102:

(a) "alcoholic product";

(b) "club license";
(c) "local authority"; and
(d) "restaurant."
(2) A person may not operate an association, a restaurant, a business similar to a business operated under a club license, or other similar business that allows a person to possess or consume an alcoholic product on the premises of the association, restaurant, club, or similar business premises without a business license.
(3) (a) A local authority may issue a business license to a person who owns or operates an association, restaurant, club, or similar business that allows a person to hold, store, possess, or consume an alcoholic product on the premises.
(b) A business license issued under this Subsection (3) does not permit a person to hold, store, possess, or consume an alcoholic product on the premises other than as provided in Title 32B, Alcoholic Beverage Control Act.
(4) A local authority may suspend or revoke a business license for a violation of Title 32B, Alcoholic Beverage Control Act.
(5) A local authority shall set policy by written rules that establish criteria and procedures for granting, denying, suspending, or revoking a business license issued under this chapter.
(6) A business license issued under this section does not constitute written consent of the local authority within the meaning of Title 32B, Alcoholic Beverage Control Act.

Amended by Chapter 276, 2010 General Session

11-10-2. Qualifications of licensee.
(1) A license may not be granted:
(a) unless the licensee is of good moral character, over the age of 21 years, and a citizen of the United States;
(b) to anyone who has been convicted of a felony or misdemeanor involving moral turpitude;
(c) to any partnership or association, any member of which lacks any of the qualifications set out in this section; or
(d) to any corporation, if any of its directors or officers lacks any qualification set out in this section.
(2) The local authority shall, before issuing licenses, satisfy itself by written evidence executed by the applicant that the applicant meets the standards set forth.

Amended by Chapter 23, 1990 General Session

11-10-3. License fee.
The license fee may not exceed $300.

Amended by Chapter 23, 1990 General Session

11-10-4. Ordinances making it unlawful to operate without license.
Each local authority granting licenses under this chapter may adopt ordinances

making it unlawful to operate such establishments without being licensed.

Amended by Chapter 23, 1990 General Session

11-13-101. Title.

This chapter is known as the "Interlocal Cooperation Act."

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-102. Purpose of chapter.

The purpose of this chapter is:

(1) to permit local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and under forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities; and

(2) to provide the benefit of economy of scale, economic development, and utilization of natural resources for the overall promotion of the general welfare of the state.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-103. Definitions.

As used in this chapter:

(1) (a) "Additional project capacity" means electric generating capacity provided by a generating unit that first produces electricity on or after May 6, 2002, and that is constructed or installed at or adjacent to the site of a project that first produced electricity before May 6, 2002, regardless of whether:

(i) the owners of the new generating unit are the same as or different from the owner of the project; and

(ii) the purchasers of electricity from the new generating unit are the same as or different from the purchasers of electricity from the project.

(b) "Additional project capacity" does not mean or include replacement project capacity.

(2) "Board" means the Permanent Community Impact Fund Board created by Section 35A-8-304, and its successors.

(3) "Candidate" means one or more of:

(a) the state;

(b) a county, municipality, school district, local district, special service district, or other political subdivision of the state; and

(c) a prosecution district.

(4) "Commercial project entity" means a project entity, defined in Subsection (12), that:

(a) has no taxing authority; and

(b) is not supported in whole or in part by and does not expend or disburse tax

revenues.

(5) "Direct impacts" means an increase in the need for public facilities or services that is attributable to the project or facilities providing additional project capacity, except impacts resulting from the construction or operation of a facility that is:

(a) owned by an owner other than the owner of the project or of the facilities providing additional project capacity; and

(b) used to furnish fuel, construction, or operation materials for use in the project.

(6) "Electric interlocal entity" means an interlocal entity described in Subsection 11-13-203(3).

(7) "Energy services interlocal entity" means an interlocal entity that is described in Subsection 11-13-203(4).

(8) (a) "Estimated electric requirements," when used with respect to a qualified energy services interlocal entity, includes any of the following that meets the requirements of Subsection (8)(b):

(i) generation capacity;

(ii) generation output; or

(iii) an electric energy production facility.

(b) An item listed in Subsection (8)(a) is included in "estimated electric requirements" if it is needed by the qualified energy services interlocal entity to perform the qualified energy services interlocal entity's contractual or legal obligations to any of its members.

(9) "Interlocal entity" means:

(a) a Utah interlocal entity, an electric interlocal entity, or an energy services interlocal entity; or

(b) a separate legal or administrative entity created under Section 11-13-205.

(10) "Out-of-state public agency" means a public agency as defined in Subsection (13)(c), (d), or (e).

(11) (a) "Project":

(i) means an electric generation and transmission facility owned by a Utah interlocal entity or an electric interlocal entity; and

(ii) includes fuel or fuel transportation facilities and water facilities owned by that Utah interlocal entity or electric interlocal entity and required for the generation and transmission facility.

(b) "Project" includes a project entity’s ownership interest in:

(i) facilities that provide additional project capacity;

(ii) facilities that provide replacement project capacity; and

(iii) additional generating, transmission, fuel, fuel transportation, water, or other facilities added to a project.

(12) "Project entity" means a Utah interlocal entity or an electric interlocal entity that owns a project.

(13) "Public agency" means:

(a) a city, town, county, school district, local district, special service district, or other political subdivision of the state;

(b) the state or any department, division, or agency of the state;

(c) any agency of the United States;

(d) any political subdivision or agency of another state or the District of Columbia including any interlocal cooperation or joint powers agency formed under the authority of the law of the other state or the District of Columbia; and

(e) any Indian tribe, band, nation, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(14) "Qualified energy services interlocal entity" means an energy services interlocal entity that at the time that the energy services interlocal entity acquires its interest in facilities providing additional project capacity has at least five members that are Utah public agencies.

(15) "Replacement project capacity" means electric generating capacity or transmission capacity that:

(a) replaces all or a portion of the existing electric generating or transmission capacity of a project; and

(b) is provided by a facility that is constructed, reconstructed, converted, repowered, or installed in a location adjacent to or in proximity to or interconnected with the site of a project, regardless of whether the capacity replacing existing capacity is less than or exceeds the generating or transmission capacity of the project prior to installation of the capacity replacing existing capacity.

(16) "Utah interlocal entity":

(a) means an interlocal entity described in Subsection 11-13-203(2); and

(b) includes a separate legal or administrative entity created under Laws of Utah 1977, Chapter 47, Section 3, as amended.

(17) "Utah public agency" means a public agency under Subsection (13)(a) or (b).

Amended by Chapter 212, 2012 General Session
Amended by Chapter 345, 2012 General Session

11-13-201. Joint exercise of power, privilege, or authority by public agencies -- Relationship to the Municipal Cable Television and Public Telecommunications Services Act.

(1) (a) Any power, privilege, or authority exercised or capable of exercise by a Utah public agency may be exercised and enjoyed jointly with any other Utah public agency having the power, privilege, or authority, and jointly with any out-of-state public agency to the extent that the laws governing the out-of-state public agency permit such joint exercise or enjoyment.

(b) Any agency of the state government when acting jointly with any public agency may exercise and enjoy all of the powers, privileges, and authority conferred by this chapter upon a public agency.

(2) This chapter may not enlarge or expand the authority of a public agency not authorized to offer and provide cable television services and public telecommunications services under Title 10, Chapter 18, Municipal Cable Television and Public Telecommunications Services Act, to offer or provide cable television services and public telecommunications services.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-202. Agreements for joint or cooperative action, for providing or exchanging services, or for law enforcement services -- Effective date of agreement -- Public agencies may restrict their authority or exempt each other regarding permits and fees.

(1) Any two or more public agencies may enter into an agreement with one another under this chapter:

(a) for joint or cooperative action;

(b) to provide services that they are each authorized by statute to provide;

(c) to exchange services that they are each authorized by statute to provide;

(d) for a public agency to provide law enforcement services to one or more other public agencies, if the public agency providing law enforcement services under the interlocal agreement is authorized by law to provide those services, or to provide joint or cooperative law enforcement services between or among public agencies that are each authorized by law to provide those services; or

(e) to do anything else that they are each authorized by statute to do.

(2) An agreement under Subsection (1) does not take effect until it has been approved, as provided in Section 11-13-202.5, by each public agency that is a party to it.

(3) (a) In an agreement under Subsection (1), a public agency that is a party to the agreement may agree:

(i) to restrict its authority to issue permits to or assess fees from another public agency that is a party to the agreement; and

(ii) to exempt another public agency that is a party to the agreement from permit or fee requirements.

(b) A provision in an agreement under Subsection (1) whereby the parties agree as provided in Subsection (3)(a) is subject to all remedies provided by law and in the agreement, including injunction, mandamus, abatement, or other remedy to prevent, enjoin, abate, or enforce the provision.

(4) An interlocal agreement between a county and one or more municipalities for law enforcement service within an area that includes some or all of the unincorporated area of the county shall require the law enforcement service provided under the agreement to be provided by or under the direction of the county sheriff.

Amended by Chapter 218, 2009 General Session

11-13-202.5. Approval of certain agreements -- Review by attorney.

(1) Each agreement under Section 11-13-202 and each agreement under Section 11-13-212 shall be approved by:

(a) except as provided in Subsections (1)(b) and (c), the commission, board, council, or other body or officer vested with the executive power of the public agency;

(b) the legislative body of the public agency if the agreement:

(i) requires the public agency to adjust its budget for a current or future fiscal year;

(ii) includes an out-of-state public agency as a party;

(iii) provides for the public agency to acquire or construct:

(A) a facility; or

(B) an improvement to real property;

(iv) provides for the public agency to acquire or transfer title to real property;

(v) provides for the public agency to issue bonds;

(vi) creates an interlocal entity; or

(vii) provides for the public agency to share taxes or other revenues; or

(c) if the public agency is a public agency under Subsection 11-13-103(13)(b), the director or other head of the applicable state department, division, or agency.

(2) If an agreement is required under Subsection (1) to be approved by the public agency's legislative body, the resolution or ordinance approving the agreement shall:

(a) specify the effective date of the agreement; and

(b) if the agreement creates an interlocal entity:

(i) declare that it is the legislative body's intent to create an interlocal entity;

(ii) describe the public purposes for which the interlocal entity is created; and

(iii) describe the powers, duties, and functions of the interlocal entity.

(3) The officer or body required under Subsection (1) to approve an agreement shall, before the agreement may take effect, submit the agreement to the attorney authorized to represent the public agency for review as to proper form and compliance with applicable law.

Enacted by Chapter 38, 2003 General Session

11-13-203. Interlocal entities -- Agreement to approve the creation of an interlocal entity -- Utah interlocal entity may become electric interlocal entity or energy services interlocal entity.

(1) An interlocal entity is:

(a) separate from the public agencies that create it;

(b) a body politic and corporate; and

(c) a political subdivision of the state.

(2) Any two or more Utah public agencies may enter into an agreement to approve the creation of a Utah interlocal entity to accomplish the purpose of their joint or cooperative action, including undertaking and financing a facility or improvement to provide the service contemplated by that agreement.

(3) (a) A Utah public agency and one or more public agencies may enter into an agreement to approve the creation of an electric interlocal entity to accomplish the purpose of their joint or cooperative action if that purpose is to participate in the undertaking or financing of:

(i) facilities to provide additional project capacity;

(ii) common facilities under Title 54, Chapter 9, Electric Power Facilities Act; or

(iii) electric generation or transmission facilities.

(b) By agreement with one or more public agencies that are not parties to the agreement creating it, a Utah interlocal entity may be reorganized as an electric interlocal entity if:

(i) the public agencies that are parties to the agreement creating the Utah

interlocal entity authorize, in the same manner required to amend the agreement creating the Utah interlocal entity, the Utah interlocal entity to be reorganized as an electric interlocal entity; and

(ii) the purpose of the joint or cooperative action to be accomplished by the electric interlocal entity meets the requirements of Subsection (3)(a).

(4) (a) Two or more Utah public agencies may enter into an agreement with one another or with one or more public agencies to approve the creation of an energy services interlocal entity to accomplish the purposes of their joint and cooperative action with respect to facilities, services, and improvements necessary or desirable with respect to the acquisition, generation, transmission, management, and distribution of electric energy for the use and benefit of the public agencies that enter into the agreement.

(b) (i) A Utah interlocal entity that was created to facilitate the transmission or supply of electric power may, by resolution adopted by its governing body, elect to become an energy services interlocal entity.

(ii) Notwithstanding Subsection (4)(b)(i), a Utah interlocal entity that is also a project entity may not elect to become an energy services interlocal entity.

(iii) An election under Subsection (4)(b)(i) does not alter, limit, or affect the validity or enforceability of a previously executed contract, agreement, bond, or other obligation of the Utah interlocal entity making the election.

Amended by Chapter 350, 2009 General Session

11-13-203.5. Powers, immunities, and privileges of law enforcement officers under an agreement for law enforcement -- Requirements for out-of-state officers.

(1) While performing duties under an agreement for law enforcement services under Subsection 11-13-202(1)(d), whether inside or outside the law enforcement officer's own jurisdiction, each law enforcement officer shall possess:

(a) all law enforcement powers that the officer possesses within the officer's own jurisdiction, including the power to arrest; and

(b) the same immunities and privileges as if the duties were performed within the officer's own jurisdiction.

(2) Each agreement between a Utah public agency and an out-of-state public agency under Subsection 11-13-202(1)(d) providing for reciprocal law enforcement services shall require each person from the other state assigned to law enforcement duty in this state:

(a) to be certified as a peace officer in the state of the out-of-state public agency; and

(b) to apply to the Peace Officer Standards and Training Council, created in Section 53-6-106, for recognition before undertaking duties in this state under the agreement.

Enacted by Chapter 38, 2003 General Session

11-13-204. Powers and duties of interlocal entities -- Additional powers of

energy services interlocal entities -- Length of term of agreement and interlocal entity -- Notice to lieutenant governor -- Recording requirements -- Public Service Commission.

(1) (a) An interlocal entity:

(i) may:

(A) adopt, amend, and repeal rules, bylaws, policies, and procedures for the regulation of its affairs and the conduct of its business;

(B) sue and be sued;

(C) have an official seal and alter that seal at will;

(D) make and execute contracts and other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions;

(E) acquire real or personal property, or an undivided, fractional, or other interest in real or personal property, necessary or convenient for the purposes contemplated in the agreement creating the interlocal entity and sell, lease, or otherwise dispose of that property;

(F) directly or by contract with another:

(I) own and acquire facilities and improvements or an undivided, fractional, or other interest in facilities and improvements;

(II) construct, operate, maintain, and repair facilities and improvements; and

(III) provide the services contemplated in the agreement creating the interlocal entity;

(G) borrow money, incur indebtedness, and issue revenue bonds, notes, or other obligations and secure their payment by an assignment, pledge, or other conveyance of all or any part of the revenues and receipts from the facilities, improvements, or services that the interlocal entity provides;

(H) offer, issue, and sell warrants, options, or other rights related to the bonds, notes, or other obligations issued by the interlocal entity; and

(I) sell or contract for the sale of the services, output, product, or other benefits provided by the interlocal entity to:

(I) public agencies inside or outside the state; and

(II) with respect to any excess services, output, product, or benefits, any person on terms that the interlocal entity considers to be in the best interest of the public agencies that are parties to the agreement creating the interlocal entity; and

(ii) may not levy, assess, or collect ad valorem property taxes.

(b) An assignment, pledge, or other conveyance under Subsection (1)(a)(i)(G) may, to the extent provided by the documents under which the assignment, pledge, or other conveyance is made, rank prior in right to any other obligation except taxes or payments in lieu of taxes payable to the state or its political subdivisions.

(2) An energy services interlocal entity:

(a) except with respect to any ownership interest it has in facilities providing additional project capacity, is not subject to:

(i) Part 3, Project Entity Provisions; or

(ii) Title 59, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act; and

(b) may:

(i) own, acquire, and, by itself or by contract with another, construct, operate,

and maintain a facility or improvement for the generation, transmission, and transportation of electric energy or related fuel supplies;

(ii) enter into a contract to obtain a supply of electric power and energy and ancillary services, transmission, and transportation services, and supplies of natural gas and fuels necessary for the operation of generation facilities;

(iii) enter into a contract with public agencies, investor-owned or cooperative utilities, and others, whether located in or out of the state, for the sale of wholesale services provided by the energy services interlocal entity; and

(iv) adopt and implement risk management policies and strategies and enter into transactions and agreements to manage the risks associated with the purchase and sale of energy, including forward purchase and sale contracts, hedging, tolling and swap agreements, and other instruments.

(3) Notwithstanding Section 11-13-216, an agreement creating an interlocal entity or an amendment to that agreement may provide that the agreement may continue and the interlocal entity may remain in existence until the latest to occur of:

(a) 50 years after the date of the agreement or amendment;

(b) five years after the interlocal entity has fully paid or otherwise discharged all of its indebtedness;

(c) five years after the interlocal entity has abandoned, decommissioned, or conveyed or transferred all of its interest in its facilities and improvements; or

(d) five years after the facilities and improvements of the interlocal entity are no longer useful in providing the service, output, product, or other benefit of the facilities and improvements, as determined under the agreement governing the sale of the service, output, product, or other benefit.

(4) (a) The governing body of each party to the agreement to approve the creation of an interlocal entity, including an electric interlocal entity and an energy services interlocal entity, under Section 11-13-203 shall:

(i) within 30 days after the date of the agreement, jointly file with the lieutenant governor:

(A) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(B) if less than all of the territory of any Utah public agency that is a party to the agreement is included within the interlocal entity, a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(ii) upon the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5:

(A) if the interlocal entity is located within the boundary of a single county, submit to the recorder of that county:

(I) the original:

(Aa) notice of an impending boundary action;

(Bb) certificate of creation; and

(Cc) approved final local entity plat, if an approved final local entity plat was required to be filed with the lieutenant governor under Subsection (4)(a)(i)(B); and

(II) a certified copy of the agreement approving the creation of the interlocal entity; or

(B) if the interlocal entity is located within the boundaries of more than a single

county:

(I) submit to the recorder of one of those counties:

(Aa) the original of the documents listed in Subsections (4)(a)(ii)(A)(I)(Aa), (Bb), and (Cc); and

(Bb) a certified copy of the agreement approving the creation of the interlocal entity; and

(II) submit to the recorder of each other county:

(Aa) a certified copy of the documents listed in Subsections (4)(a)(ii)(A)(I)(Aa), (Bb), and (Cc); and

(Bb) a certified copy of the agreement approving the creation of the interlocal entity.

(b) Upon the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5, the interlocal entity is created.

(c) Until the documents listed in Subsection (4)(a)(ii) are recorded in the office of the recorder of each county in which the property is located, a newly created interlocal entity may not charge or collect a fee for service provided to property within the interlocal entity.

(5) Nothing in this section may be construed as expanding the rights of any municipality or interlocal entity to sell or provide retail service.

(6) Except as provided in Subsection (7):

(a) nothing in this section may be construed to expand or limit the rights of a municipality to sell or provide retail electric service; and

(b) an energy services interlocal entity may not provide retail electric service to customers located outside the municipal boundaries of its members.

(7) (a) An energy services interlocal entity created before July 1, 2003, that is comprised solely of Utah municipalities and that, for a minimum of 50 years before July 1, 2010, provided retail electric service to customers outside the municipal boundaries of its members, may provide retail electric service outside the municipal boundaries of its members if:

(i) the energy services interlocal entity:

(A) enters into a written agreement with each public utility holding a certificate of public convenience and necessity issued by the Public Service Commission to provide service within an agreed upon geographic area for the energy services interlocal entity to be responsible to provide electric service in the agreed upon geographic area outside the municipal boundaries of the members of the energy services interlocal entity; and

(B) obtains a franchise agreement, with the legislative body of the county or other governmental entity for the geographic area in which the energy services interlocal entity provides service outside the municipal boundaries of its members; and

(ii) each public utility described in Subsection (7)(a)(i)(A) applies for and obtains from the Public Service Commission approval of the agreement specified in Subsection (7)(a)(i)(A).

(b) (i) The Public Service Commission shall, after a public hearing held in accordance with Title 52, Chapter 4, Open and Public Meetings Act, approve an agreement described in Subsection (7)(a)(ii) if it determines that the agreement is in the public interest in that it incorporates the customer protections described in Subsection (7)(c) and the franchise agreement described in Subsection (7)(a)(i)(B) provides a

reasonable mechanism using a neutral arbiter or ombudsman for resolving potential future complaints by customers of the energy services interlocal entity.

(ii) In approving an agreement, the Public Service Commission shall also amend the certificate of public convenience and necessity of any public utility described in Subsection (7)(a)(i) to delete from the geographic area specified in the certificate or certificates of the public utility the geographic area that the energy services interlocal entity has agreed to serve.

(c) In providing retail electric service to customers outside of the municipal boundaries of its members, but not within the municipal boundaries of another municipality that grants a franchise agreement in accordance with Subsection (7)(a)(i)(B), an energy services interlocal entity shall comply with the following:

(i) the rates and conditions of service for customers outside the municipal boundaries of the members shall be at least as favorable as the rates and conditions of service for similarly situated customers within the municipal boundaries of the members;

(ii) the energy services interlocal entity shall operate as a single entity providing service both inside and outside of the municipal boundaries of its members;

(iii) a general rebate, refund, or other payment made to customers located within the municipal boundaries of the members shall also be provided to similarly situated customers located outside the municipal boundaries of the members;

(iv) a schedule of rates and conditions of service, or any change to the rates and conditions of service, shall be approved by the governing body of the energy services interlocal entity;

(v) before implementation of any rate increase, the governing body of the energy services interlocal entity shall first hold a public meeting to take public comment on the proposed increase, after providing at least 20 days and not more than 60 days' advance written notice to its customers on the ordinary billing and on the Utah Public Notice Website, created by Section 63F-1-701; and

(vi) the energy services interlocal entity shall file with the Public Service Commission its current schedule of rates and conditions of service.

(d) The Public Service Commission shall make the schedule of rates and conditions of service of the energy services interlocal entity available for public inspection.

(e) Nothing in this section:

(i) gives the Public Service Commission jurisdiction over the provision of retail electric service by an energy services interlocal entity within the municipal boundaries of its members; or

(ii) makes an energy services interlocal entity a public utility under Title 54, Public Utilities.

(f) Nothing in this section expands or diminishes the jurisdiction of the Public Service Commission over a municipality or an association of municipalities organized under Title 11, Chapter 13, Interlocal Cooperation Act, except as specifically authorized by this section's language.

(g) (i) An energy services interlocal entity described in Subsection (7)(a) retains its authority to provide electric service to the extent authorized by Sections 11-13-202 and 11-13-203 and Subsections 11-13-204 (1) through (5).

(ii) Notwithstanding Subsection (7)(g)(i), if the Public Service Commission approves the agreement described in Subsection (7)(a)(i), the energy services interlocal entity may not provide retail electric service to customers located outside the municipal boundaries of its members, except for customers located within the geographic area described in the agreement.

Amended by Chapter 173, 2010 General Session

11-13-205. Agreement by public agencies to approve the creation of a new entity to own sewage and wastewater facilities -- Powers and duties of new entities -- Validation of previously created entities -- Notice to lieutenant governor -- Recording requirements.

(1) It is declared that the policy of the state is to assure the health, safety, and welfare of its citizens, that adequate sewage and wastewater treatment plants and facilities are essential to the well-being of the citizens of the state and that the acquisition of adequate sewage and wastewater treatment plants and facilities on a regional basis in accordance with federal law and state and federal water quality standards and effluent standards in order to provide services to public agencies is a matter of statewide concern and is in the public interest. It is found and declared that there is a statewide need to provide for regional sewage and wastewater treatment plants and facilities, and as a matter of express legislative determination it is declared that the compelling need of the state for construction of regional sewage and wastewater treatment plants and facilities requires the creation of entities under the Interlocal Cooperation Act to own, construct, operate, and finance sewage and wastewater treatment plants and facilities; and it is the purpose of this law to provide for the accomplishment thereof in the manner provided in this section.

(2) Any two or more public agencies of the state may also agree to approve the creation of a separate legal or administrative entity to accomplish and undertake the purpose of owning, acquiring, constructing, financing, operating, maintaining, and repairing regional sewage and wastewater treatment plants and facilities.

(3) A separate legal or administrative entity created under this section is considered to be a political subdivision and body politic and corporate of the state with power to carry out and effectuate its corporate powers, including the power:

(a) to adopt, amend, and repeal rules, bylaws, and regulations, policies, and procedures for the regulation of its affairs and the conduct of its business, to sue and be sued in its own name, to have an official seal and power to alter that seal at will, and to make and execute contracts and all other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions under the Interlocal Cooperation Act;

(b) to own, acquire, construct, operate, maintain, repair, or cause to be constructed, operated, maintained, and repaired one or more regional sewage and wastewater treatment plants and facilities, all as shall be set forth in the agreement providing for its creation;

(c) to borrow money, incur indebtedness and issue revenue bonds, notes or other obligations payable solely from the revenues and receipts derived from all or a portion of the regional sewage and wastewater treatment plants and facilities which it

owns, operates, and maintains, such bonds, notes, or other obligations to be issued and sold in compliance with the provisions of Title 11, Chapter 14, Local Government Bonding Act;

(d) to enter into agreements with public agencies and other parties and entities to provide sewage and wastewater treatment services on such terms and conditions as it considers to be in the best interests of its participants; and

(e) to acquire by purchase or by exercise of the power of eminent domain, any real or personal property in connection with the acquisition and construction of any sewage and wastewater treatment plant and all related facilities and rights-of-way which it owns, operates, and maintains.

(4) The provisions of Part 3, Project Entity Provisions, do not apply to a legal or administrative entity created for regional sewage and wastewater treatment purposes under this section.

(5) All proceedings previously had in connection with the creation of any legal or administrative entity pursuant to this chapter, and all proceedings previously had by any such entity for the authorization and issuance of bonds of the entity are validated, ratified, and confirmed; and these entities are declared to be validly created interlocal cooperation entities under this chapter. These bonds, whether previously or subsequently issued pursuant to these proceedings, are validated, ratified, and confirmed and declared to constitute, if previously issued, or when issued, the valid and legally binding obligations of the entity in accordance with their terms. Nothing in this section shall be construed to affect or validate any bonds, or the organization of any entity, the legality of which is being contested at the time this act takes effect.

(6) (a) The governing body of each party to the agreement to approve the creation of an entity under this section shall:

(i) within 30 days after the date of the agreement, jointly file with the lieutenant governor:

(A) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(B) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(ii) upon the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5:

(A) if the entity is located within the boundary of a single county, submit to the recorder of that county:

(I) the original:

(Aa) notice of an impending boundary action;

(Bb) certificate of creation; and

(Cc) approved final local entity plat; and

(II) a certified copy of the agreement approving the creation of the entity; or

(B) if the entity is located within the boundaries of more than a single county:

(I) submit to the recorder of one of those counties:

(Aa) the original of the documents listed in Subsections (6)(a)(ii)(A)(I)(Aa), (Bb), and (Cc); and

(Bb) a certified copy of the agreement approving the creation of the entity; and

(II) submit to the recorder of each other county:

(Aa) a certified copy of the documents listed in Subsections (6)(a)(ii)(A)(I)(Aa), (Bb), and (Cc); and

(Bb) a certified copy of the agreement approving the creation of the entity.

(b) Upon the lieutenant governor's issuance of a certificate of entity creation under Section 67-1a-6.5, the entity is created.

(c) Until the documents listed in Subsection (6)(a)(ii) are recorded in the office of the recorder of each county in which the property is located, a newly created entity under this section may not charge or collect a fee for service provided to property within the entity.

Amended by Chapter 350, 2009 General Session

11-13-206. Requirements for agreements for joint or cooperative action.

(1) Each agreement under Section 11-13-202, 11-13-203, or 11-13-205 shall specify:

(a) its duration;

(b) if the agreement creates an interlocal entity:

(i) the precise organization, composition, and nature of the interlocal entity;

(ii) the powers delegated to the interlocal entity;

(iii) the manner in which the interlocal entity is to be governed; and

(iv) subject to Subsection (2), the manner in which the members of its governing body are to be appointed or selected;

(c) its purpose or purposes;

(d) the manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget for it;

(e) the permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination; and

(f) any other necessary and proper matters.

(2) Each agreement under Section 11-13-203 or 11-13-205 that creates an interlocal entity shall require that Utah public agencies that are parties to the agreement have the right to appoint or select members of the interlocal entity's governing body with a majority of the voting power.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-207. Additional requirements for agreement not establishing interlocal entity.

If an agreement under Section 11-13-202 does not establish an interlocal entity to conduct the joint or cooperative undertaking, the agreement shall, in addition to the items specified in Section 11-13-206, provide for:

(1) the joint or cooperative undertaking to be administered by:

(a) an administrator; or

(b) a joint board with representation from the public agencies that are parties to the agreement; and

(2) the manner of acquiring, holding, and disposing of real and personal property

used in the joint or cooperative undertaking.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-208. Agreement does not relieve public agency of legal obligation or responsibility -- Exception.

(1) Except as provided in Subsection (2), an agreement made under this chapter does not relieve a public agency of an obligation or responsibility imposed upon it by law.

(2) If an obligation or responsibility of a public agency is actually and timely performed by a joint board or by an interlocal entity created by an agreement made under this chapter, that performance may be offered in satisfaction of the obligation or responsibility.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-209. Filing of agreement.

An agreement made under this chapter does not take effect until it is filed with the keeper of records of each of the public agencies that are parties to the agreement.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-210. Controversies involving agreements between Utah public agencies and out-of-state agencies.

(1) In any case or controversy involving the performance or interpretation of or the liability under an agreement entered into under this chapter between or among one or more Utah public agencies and one or more out-of-state public agencies, the public agencies that are parties to the agreement shall be real parties in interest and the state may maintain an action to recoup or otherwise make itself whole for any damages or liabilities which it may incur by reason of being joined as a party to the case or controversy.

(2) An action shall be maintainable against any public agency whose default, failure to perform, or other conduct caused or contributed to the incurring of damage or liability by the state.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-211. Public agencies authorized to provide resources to administrative joint boards or interlocal entity.

A public agency entering into an agreement under this chapter under which an administrative joint board is established or an interlocal entity is created to operate the joint or cooperative undertaking may:

(1) appropriate funds to the administrative joint board or interlocal entity;

(2) sell, lease, give, or otherwise supply tangible and intangible property to the administrative joint board or interlocal entity; and

(3) provide personnel or services for the administrative joint board or interlocal

entity as may be within its legal power to furnish.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-212. Contracts between public agencies or with interlocal entities to perform services, activities, or undertakings -- Facilities and improvements.

(1) (a) Public agencies may contract with each other and one or more public agencies may contract with an interlocal entity created under this chapter to perform any service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform.

(b) Each contract under Subsection (1)(a) shall be authorized as provided in Section 11-13-202.5.

(c) Each contract under Subsection (1)(a) shall set forth fully the purposes, powers, rights, objectives, and responsibilities of the contracting parties.

(d) In order to perform a service, activity, or undertaking provided for in a contract under Subsection (1)(a), a public agency may create, construct, or otherwise acquire facilities or improvements in excess of those required to meet the needs and requirements of the parties to the contract.

(2) An interlocal entity created by agreement under this chapter may create, construct, or otherwise acquire facilities or improvements to render services or provide benefits in excess of those required to meet the needs or requirements of the public agencies that are parties to the agreement if it is determined by the public agencies to be necessary to accomplish the purposes and realize the benefits set forth in Section 11-13-102.

Amended by Chapter 38, 2003 General Session

11-13-213. Agreements for joint ownership, operation, or acquisition of facilities or improvements.

Any two or more public agencies may make agreements between or among themselves:

(1) for the joint ownership of any one or more facilities or improvements which they have authority by law to own individually;

(2) for the joint operation of any one or more facilities or improvements which they have authority by law to operate individually;

(3) for the joint acquisition by gift, grant, purchase, construction, condemnation or otherwise of any one or more such facilities or improvements and for the extension, repair or improvement thereof;

(4) for the exercise by an interlocal entity of its powers with respect to any one or more facilities or improvements and the extensions, repairs, or improvements of them; or

(5) any combination of the foregoing.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-214. Conveyance or acquisition of property by public agency.

In carrying out the provisions of this chapter, any public agency may convey property to or acquire property from any other public agency for consideration as may be agreed upon.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-215. Sharing tax or other revenues.

(1) A county, city, town, or other local political subdivision may, at the discretion of the local governing body, share its tax and other revenues with other counties, cities, towns, or local political subdivisions, the state, or a federal government agency.

(2) Each decision to share tax and other revenues shall be made as provided in Section 11-13-202.5.

Amended by Chapter 38, 2003 General Session

11-13-216. Term of agreements.

Except as provided in Subsection 11-13-204(3), each agreement under this chapter shall extend for a term of not to exceed 50 years.

Amended by Chapter 38, 2003 General Session

11-13-217. Control and operation of joint facility or improvement provided by agreement.

Any facility or improvement jointly owned or jointly operated by any two or more public agencies or acquired or constructed pursuant to an agreement under this chapter may be operated by any one or more of the interested public agencies designated for the purpose or may be operated by a joint board or commission or an interlocal entity created for the purpose or through an agreement by an interlocal entity and a public agency receiving service or other benefits from such entity or may be controlled and operated in some other manner, all as may be provided by appropriate agreement. Payment for the cost of such operation shall be made as provided in any such agreement.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-218. Authority of public agencies or interlocal entities to issue bonds.

(1) A public agency may, in the same manner as it may issue bonds for its individual acquisition of a facility or improvement or for constructing, improving, or extending a facility or improvement, issue bonds to:

(a) acquire an interest in a jointly owned facility or improvement, a combination of a jointly owned facility or improvement, or any other facility or improvement; or

(b) pay all or part of the cost of constructing, improving, or extending a jointly owned facility or improvement, a combination of a jointly owned facility or improvement, or any other facility or improvement.

(2) (a) An interlocal entity may issue bonds or notes under a resolution, trust

indenture, or other security instrument for the purpose of:

(i) financing its facilities or improvements; or

(ii) providing for or financing an energy efficiency upgrade or a renewable energy system in accordance with Title 11, Chapter 42, Assessment Area Act.

(b) The bonds or notes may be sold at public or private sale, mature at such times and bear interest at such rates, and have such other terms and security as the entity determines.

(c) Such bonds are not a debt of any public agency that is a party to the agreement.

(3) The governing body, as defined in Section 11-13-219, of an interlocal entity may, by resolution, delegate to one or more officers of the interlocal entity or to a committee of designated members of the governing body the authority to:

(a) in accordance with and within the parameters set forth in the resolution, approve the final interest rate, price, principal amount, maturity, redemption features, or other terms of a bond or note; and

(b) approve and execute all documents relating to the issuance of the bond or note.

(4) Bonds and notes issued under this chapter are declared to be negotiable instruments and their form and substance need not comply with the Uniform Commercial Code.

Amended by Chapter 246, 2013 General Session

11-13-219. Publication of resolutions or agreements -- Contesting legality of resolution or agreement.

(1) As used in this section:

(a) "Enactment" means:

(i) a resolution adopted or proceedings taken by a governing body under the authority of this chapter, and includes a resolution, indenture, or other instrument providing for the issuance of bonds; and

(ii) an agreement or other instrument that is authorized, executed, or approved by a governing body under the authority of this chapter.

(b) "Governing body" means:

(i) the legislative body of a public agency; and

(ii) the governing body of an interlocal entity created under this chapter.

(c) "Notice of bonds" means the notice authorized by Subsection (3)(d).

(d) "Notice of agreement" means the notice authorized by Subsection (3)(c).

(e) "Official newspaper" means the newspaper selected by a governing body under Subsection (4)(b) to publish its enactments.

(2) Any enactment taken or made under the authority of this chapter is not subject to referendum.

(3) (a) A governing body need not publish any enactment taken or made under the authority of this chapter.

(b) A governing body may provide for the publication of any enactment taken or made by it under the authority of this chapter according to the publication requirements established by this section.

(c) (i) If the enactment is an agreement, document, or other instrument, or a resolution or other proceeding authorizing or approving an agreement, document, or other instrument, the governing body may, instead of publishing the full text of the agreement, resolution, or other proceeding, publish a notice of agreement containing:

(A) the names of the parties to the agreement;

(B) the general subject matter of the agreement;

(C) the term of the agreement;

(D) a description of the payment obligations, if any, of the parties to the agreement; and

(E) a statement that the resolution and agreement will be available for review at the governing body's principal place of business during regular business hours for 30 days after the publication of the notice of agreement.

(ii) The governing body shall make a copy of the resolution or other proceeding and a copy of the contract available at its principal place of business during regular business hours for 30 days after the publication of the notice of agreement.

(d) If the enactment is a resolution or other proceeding authorizing the issuance of bonds, the governing body may, instead of publishing the full text of the resolution or other proceeding and the documents pertaining to the issuance of bonds, publish a notice of bonds that contains the information described in Subsection 11-14-316(2).

(4) (a) If the governing body chooses to publish an enactment, notice of bonds, or notice of agreement, the governing body shall comply with the requirements of this Subsection (4).

(b) If there is more than one newspaper of general circulation, or more than one newspaper, published within the boundaries of the governing body, the governing body may designate one of those newspapers as the official newspaper for all publications made under this section.

(c) (i) (A) The governing body shall publish the enactment, notice of bonds, or notice of agreement in:

(I) the official newspaper;

(II) the newspaper published in the municipality in which the principal office of the governmental entity is located; or

(III) if no newspaper is published in that municipality, in a newspaper having general circulation in the municipality; and

(B) as required in Section 45-1-101.

(ii) The governing body may publish the enactment, notice of bonds, or notice of agreement:

(A) (I) in a newspaper of general circulation; or

(II) in a newspaper that is published within the boundaries of any public agency that is a party to the enactment or agreement; and

(B) as required in Section 45-1-101.

(5) (a) Any person in interest may contest the legality of an enactment or any action performed or instrument issued under the authority of the enactment for 30 days after the publication of the enactment, notice of bonds, or notice of agreement.

(b) After the 30 days have passed, no one may contest the regularity, formality, or legality of the enactment or any action performed or instrument issued under the authority of the enactment for any cause whatsoever.

Amended by Chapter 388, 2009 General Session

11-13-220. Qualifications of officers or employees performing services under agreements.

Other provisions of law which require an officer or employee of a public agency to be an elector or resident of the public agency or to have other qualifications not generally applicable to all of the contracting agencies in order to qualify for that office or employment are not applicable to officers or employees who hold office or perform services for more than one public agency pursuant to agreements executed under this chapter.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-221. Compliance with chapter sufficient to effectuate agreements.

When public agencies enter into agreements under this chapter whereby they utilize a power or facility jointly, or whereby one political agency provides a service or facility to another, compliance with the requirements of this chapter is sufficient to effectuate those agreements.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-222. Officers and employees performing services under agreements.

(1) Each officer and employee performing services for two or more public agencies under an agreement under this chapter shall be considered to be:

(a) an officer or employee of the public agency employing the officer or employee's services even though the officer or employee performs those functions outside of the territorial limits of any one of the contracting public agencies; and

(b) an officer or employee of the public agencies under the provisions of Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(2) Unless otherwise provided in an agreement that creates an interlocal entity, each employee of a public agency that is a party to the agreement shall:

(a) remain an employee of that public agency, even though assigned to perform services for another public agency under the agreement; and

(b) continue to be governed by the rules, rights, entitlements, and status that apply to an employee of that public agency.

(3) All of the privileges, immunities from liability, exemptions from laws, ordinances, and rules, pensions and relief, disability, workers compensation, and other benefits that apply to an officer, agent, or employee of a public agency while performing functions within the territorial limits of the public agency apply to the same degree and extent when the officer, agent, or employee performs functions or duties under the agreement outside the territorial limits of that public agency.

Amended by Chapter 382, 2008 General Session

11-13-223. Open and public meetings.

(1) To the extent that an interlocal entity is subject to or elects, by formal resolution of its governing body to comply with the provisions of Title 52, Chapter 4, Open and Public Meetings Act, it may for purposes of complying with those provisions:

(a) convene and conduct any public meeting by means of a telephonic or telecommunications conference; and

(b) give public notice of its meeting pursuant to Section 52-4-202.

(2) In order to convene and conduct a public meeting by means of a telephonic or telecommunications conference, each interlocal entity shall if it is subject to or elects by formal resolution of its governing body to comply with Title 52, Chapter 4, Open and Public Meetings Act:

(a) in addition to giving public notice required by Subsection (1) provide:

(i) notice of the telephonic or telecommunications conference to the members of the governing body at least 24 hours before the meeting so that they may participate in and be counted as present for all purposes, including the determination that a quorum is present; and

(ii) a description of how the members will be connected to the telephonic or telecommunications conference;

(b) establish written procedures governing the conduct of any meeting at which one or more members of the governing body are participating by means of a telephonic or telecommunications conference;

(c) provide for an anchor location for the public meeting at the principal office of the governing body; and

(d) provide space and facilities for the physical attendance and participation of interested persons and the public at the anchor location, including providing for interested persons and the public to hear by speaker or other equipment all discussions and deliberations of those members of the governing body participating in the meeting by means of telephonic or telecommunications conference.

(3) Compliance with the provisions of this section by a governing body constitutes full and complete compliance by the governing body with the corresponding provisions of Sections 52-4-201 and 52-4-202, to the extent that those sections are applicable to the governing body.

Amended by Chapter 249, 2007 General Session

11-13-224. Utah interlocal entity for alternative fuel vehicles and facilities.

(1) As used in this section, "commission" means the Public Service Commission of Utah, established in Section 54-1-1.

(2) The governing body of a Utah interlocal entity created to facilitate the conversion to alternative fuel vehicles or to facilitate the construction, operation, and maintenance of facilities for alternative fuel vehicles, or both, shall consist of:

(a) an individual from the executive branch of state government, appointed by the governor;

(b) a member of the Senate, appointed by the president of the Senate;

(c) a member of the House of Representatives, appointed by the speaker of the House of Representatives;

(d) an individual from the Utah Association of Counties, appointed by the president of the Senate;

(e) an individual from the Utah League of Cities and Towns, appointed by the speaker of the House of Representatives;

(f) an individual employed by a school district in the state, appointed by the governor;

(g) an individual appointed by the public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act, with the largest budget of all public transit districts in the state;

(h) an individual employed by a gas corporation in the state, appointed by the governor; and

(i) a representative of the Utah Petroleum Marketers and Retailers Association, appointed by the governor.

(3) A Utah interlocal entity described in Subsection (2):

(a) may contribute toward the funding required for the construction, operation, and maintenance of facilities for alternative fuel vehicles that are used by or benefit the interlocal entity; and

(b) shall participate with the commission in proceedings the commission conducts under Section 54-1-13.

Enacted by Chapter 311, 2013 General Session

11-13-301. Project entity and generation output requirements.

(1) Each project entity:

(a) shall:

(i) except for construction of facilities to provide replacement project capacity, before undertaking the construction of a project and before undertaking the construction of facilities to provide additional project capacity, offer to sell or make available at least 50% of the generation output of or electric energy produced by the project or additional project capacity, respectively;

(ii) establish rules and procedures for an offer under Subsection (1)(a)(i) that provide at least 60 days for a prospective power purchaser to accept the offer before the offer is considered rejected; and

(iii) make each offer under Subsection (1)(a)(i):

(A) under a long-term arrangement that may be an undivided ownership interest, a participation interest, a power sales agreement, or otherwise; and

(B) to one or more power purchasers in the state that supply electric energy at wholesale or retail; and

(b) may undertake construction of facilities to provide replacement project capacity for its project.

(2) (a) The generation output or electric energy production available to power purchasers in the state from a project shall be at least 5% of the total generation output or electric energy production of the project.

(b) (i) Subject to Subsection (2)(b)(ii)(B), at least a majority of the generation capacity, generation output, or electric energy production facilities providing additional project capacity shall be:

(A) made available as needed to meet the estimated electric requirements of entities or consumers within the state; and

(B) owned, purchased, or consumed by entities or consumers within the state.

(ii) (A) As used in this Subsection (2)(b)(ii), "default provision" means a provision authorizing a nondefaulting party to succeed to or require the disposition of the rights and interests of a defaulting party.

(B) The requirements of Subsection (2)(b)(i) do not apply to the extent that those requirements are not met due to the operation of a default provision in an agreement providing for ownership or other interests in facilities providing additional project capacity.

Amended by Chapter 345, 2012 General Session

11-13-302. Payment of fee in lieu of ad valorem property tax by certain energy suppliers -- Method of calculating -- Collection -- Extent of tax lien.

(1) (a) Each project entity created under this chapter that owns a project and that sells any capacity, service, or other benefit from it to an energy supplier or suppliers whose tangible property is not exempted by Utah Constitution Article XIII, Section 3, from the payment of ad valorem property tax, shall pay an annual fee in lieu of ad valorem property tax as provided in this section to each taxing jurisdiction within which the project or any part of it is located.

(b) For purposes of this section, "annual fee" means the annual fee described in Subsection (1)(a) that is in lieu of ad valorem property tax.

(c) The requirement to pay an annual fee shall commence:

(i) with respect to each taxing jurisdiction that is a candidate receiving the benefit of impact alleviation payments under contracts or determination orders provided for in Sections 11-13-305 and 11-13-306, with the fiscal year of the candidate following the fiscal year of the candidate in which the date of commercial operation of the last generating unit, other than any generating unit providing additional project capacity, of the project occurs, or, in the case of any facilities providing additional project capacity, with the fiscal year of the candidate following the fiscal year of the candidate in which the date of commercial operation of the generating unit providing the additional project capacity occurs; and

(ii) with respect to any taxing jurisdiction other than a taxing jurisdiction described in Subsection (1)(c)(i), with the fiscal year of the taxing jurisdiction in which construction of the project commences, or, in the case of facilities providing additional project capacity, with the fiscal year of the taxing jurisdiction in which construction of those facilities commences.

(d) The requirement to pay an annual fee shall continue for the period of the useful life of the project or facilities.

(2) (a) The annual fees due a school district shall be as provided in Subsection (2)(b) because the ad valorem property tax imposed by a school district and authorized by the Legislature represents both:

(i) a levy mandated by the state for the state minimum school program under Section 53A-17a-135; and

(ii) local levies for capital outlay and other purposes under Sections 53A-16-113,

53A-17a-133, and 53A-17a-164.

(b) The annual fees due a school district shall be as follows:

(i) the project entity shall pay to the school district an annual fee for the state minimum school program at the rate imposed by the school district and authorized by the Legislature under Subsection 53A-17a-135(1); and

(ii) for all other local property tax levies authorized to be imposed by a school district, the project entity shall pay to the school district either:

(A) an annual fee; or

(B) impact alleviation payments under contracts or determination orders provided for in Sections 11-13-305 and 11-13-306.

(3) (a) An annual fee due a taxing jurisdiction for a particular year shall be calculated by multiplying the tax rate or rates of the jurisdiction for that year by the product obtained by multiplying the fee base or value determined in accordance with Subsection (4) for that year of the portion of the project located within the jurisdiction by the percentage of the project which is used to produce the capacity, service, or other benefit sold to the energy supplier or suppliers.

(b) As used in this section, "tax rate," when applied in respect to a school district, includes any assessment to be made by the school district under Subsection (2) or Section 63M-5-302.

(c) There is to be credited against the annual fee due a taxing jurisdiction for each year, an amount equal to the debt service, if any, payable in that year by the project entity on bonds, the proceeds of which were used to provide public facilities and services for impact alleviation in the taxing jurisdiction in accordance with Sections 11-13-305 and 11-13-306.

(d) The tax rate for the taxing jurisdiction for that year shall be computed so as to:

(i) take into account the fee base or value of the percentage of the project located within the taxing jurisdiction determined in accordance with Subsection (4) used to produce the capacity, service, or other benefit sold to the supplier or suppliers; and

(ii) reflect any credit to be given in that year.

(4) (a) Except as otherwise provided in this section, the annual fees required by this section shall be paid, collected, and distributed to the taxing jurisdiction as if:

(i) the annual fees were ad valorem property taxes; and

(ii) the project were assessed at the same rate and upon the same measure of value as taxable property in the state.

(b) (i) Notwithstanding Subsection (4)(a), for purposes of an annual fee required by this section, the fee base of a project may be determined in accordance with an agreement among:

(A) the project entity; and

(B) any county that:

(I) is due an annual fee from the project entity; and

(II) agrees to have the fee base of the project determined in accordance with the agreement described in this Subsection (4).

(ii) The agreement described in Subsection (4)(b)(i):

(A) shall specify each year for which the fee base determined by the agreement shall be used for purposes of an annual fee; and

(B) may not modify any provision of this chapter except the method by which the fee base of a project is determined for purposes of an annual fee.

(iii) For purposes of an annual fee imposed by a taxing jurisdiction within a county described in Subsection (4)(b)(i)(B), the fee base determined by the agreement described in Subsection (4)(b)(i) shall be used for purposes of an annual fee imposed by that taxing jurisdiction.

(iv) (A) If there is not agreement as to the fee base of a portion of a project for any year, for purposes of an annual fee, the State Tax Commission shall determine the value of that portion of the project for which there is not an agreement:

(I) for that year; and

(II) using the same measure of value as is used for taxable property in the state.

(B) The valuation required by Subsection (4)(b)(iv)(A) shall be made by the State Tax Commission in accordance with rules made by the State Tax Commission.

(c) Payments of the annual fees shall be made from:

(i) the proceeds of bonds issued for the project; and

(ii) revenues derived by the project entity from the project.

(d) (i) The contracts of the project entity with the purchasers of the capacity, service, or other benefits of the project whose tangible property is not exempted by Utah Constitution Article XIII, Section 3, from the payment of ad valorem property tax shall require each purchaser, whether or not located in the state, to pay, to the extent not otherwise provided for, its share, determined in accordance with the terms of the contract, of these fees.

(ii) It is the responsibility of the project entity to enforce the obligations of the purchasers.

(5) (a) The responsibility of the project entity to make payment of the annual fees is limited to the extent that there is legally available to the project entity, from bond proceeds or revenues, money to make these payments, and the obligation to make payments of the annual fees is not otherwise a general obligation or liability of the project entity.

(b) No tax lien may attach upon any property or money of the project entity by virtue of any failure to pay all or any part of an annual fee.

(c) The project entity or any purchaser may contest the validity of an annual fee to the same extent as if the payment was a payment of the ad valorem property tax itself.

(d) The payments of an annual fee shall be reduced to the extent that any contest is successful.

(6) (a) The annual fee described in Subsection (1):

(i) shall be paid by a public agency that:

(A) is not a project entity; and

(B) owns an interest in a facility providing additional project capacity if the interest is otherwise exempt from taxation pursuant to Utah Constitution, Article XIII, Section 3; and

(ii) for a public agency described in Subsection (6)(a)(i), shall be calculated in accordance with Subsection (6)(b).

(b) The annual fee required under Subsection (6)(a) shall be an amount equal to the tax rate or rates of the applicable taxing jurisdiction multiplied by the product of the

following:

(i) the fee base or value of the facility providing additional project capacity located within the jurisdiction;

(ii) the percentage of the ownership interest of the public agency in the facility; and

(iii) the portion, expressed as a percentage, of the public agency's ownership interest that is attributable to the capacity, service, or other benefit from the facility that is sold by the public agency to an energy supplier or suppliers whose tangible property is not exempted by Utah Constitution, Article XIII, Section 3, from the payment of ad valorem property tax.

(c) A public agency paying the annual fee pursuant to Subsection (6)(a) shall have the obligations, credits, rights, and protections set forth in Subsections (1) through (5) with respect to its ownership interest as though it were a project entity.

Amended by Chapter 371, 2011 General Session

11-13-303. Source of project entity's payment of sales and use tax -- Gross receipts taxes for facilities providing additional project capacity.

(1) A project entity is not exempt from sales and use taxes under Title 59, Chapter 12, Sales and Use Tax Act, to the extent provided in Subsection 59-12-104(2).

(2) A project entity may make payments or prepayments of sales and use taxes, as provided in Title 63M, Chapter 5, Resource Development, from the proceeds of revenue bonds issued under Section 11-13-218 or other revenues of the project entity.

(3) (a) This Subsection (3) applies with respect to facilities providing additional project capacity.

(b) (i) The in lieu excise tax imposed under Title 59, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, shall be imposed collectively on all gross receipts derived with respect to the ownership interests of all project entities and other public agencies in facilities providing additional project capacity as though all such ownership interests were held by a single project entity.

(ii) The in lieu excise tax shall be calculated as though the gross receipts derived with respect to all such ownership interests were received by a single taxpayer that has no other gross receipts.

(iii) The gross receipts attributable to such ownership interests shall consist solely of gross receipts that are expended by each project entity and other public agency holding an ownership interest in the facilities for the operation or maintenance of or ordinary repairs or replacements to the facilities.

(iv) For purposes of calculating the in lieu excise tax, the determination of whether there is a tax rate and, if so, what the tax rate is shall be governed by Section 59-8-104, except that the $10,000,000 figures in Section 59-8-104 indicating the amount of gross receipts that determine the applicable tax rate shall be replaced with $5,000,000.

(c) Each project entity and public agency owning an interest in the facilities providing additional project capacity shall be liable only for the portion of the gross receipts tax referred to in Subsection (3)(b) that is proportionate to its percentage

ownership interest in the facilities and may not be liable for any other gross receipts taxes with respect to its percentage ownership interest in the facilities.

(d) No project entity or other public agency that holds an ownership interest in the facilities may be subject to the taxes imposed under Title 59, Chapter 7, Corporate Franchise and Income Taxes, with respect to those facilities.

(4) For purposes of calculating the gross receipts tax imposed on a project entity or other public agency under Title 59, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Subsection (3), gross receipts include only gross receipts from the first sale of capacity, services, or other benefits and do not include gross receipts from any subsequent sale, resale, or layoff of the capacity, services, or other benefits.

Amended by Chapter 382, 2008 General Session

11-13-304. Certificate of public convenience and necessity required -- Exceptions.

(1) Before proceeding with the construction of any electrical generating plant or transmission line, each interlocal entity and each out-of-state public agency shall first obtain from the public service commission a certificate, after hearing, that public convenience and necessity requires such construction and in addition that such construction will in no way impair the public convenience and necessity of electrical consumers of the state of Utah at the present time or in the future.

(2) The requirement to obtain a certificate of public convenience and necessity applies to each project initiated after the section's effective date but does not apply to:

(a) a project for which a feasibility study was initiated prior to the effective date;

(b) any facilities providing additional project capacity;

(c) any facilities providing replacement project capacity; or

(d) transmission lines required for the delivery of electricity from a project described in Subsection (2)(a) or facilities providing additional project capacity or replacement project capacity within the corridor of a transmission line, with reasonable deviation, of a project producing as of April 21, 1987.

Amended by Chapter 345, 2012 General Session

11-13-305. Impact alleviation requirements -- Payments in lieu of ad valorem tax -- Source of impact alleviation payment.

(1) (a) (i) A project entity may assume financial responsibility for or provide for the alleviation of the direct impacts of its project, and make loans to candidates to alleviate impacts created by the construction or operation of any facility owned by others which is utilized to furnish fuel, construction or operation materials for use in the project to the extent the impacts were attributable to the project.

(ii) Provision for the alleviation may be made by contract as provided in Subsection (2) or by the terms of a determination order as provided in Section 11-13-306.

(b) A Utah public agency that is not a project entity may take the actions set forth in this Subsection (1) as though it were a project entity with respect to its

ownership interest in facilities providing additional project capacity.

(2) A candidate may, except as otherwise provided in Section 11-13-306, require the project entity or, in the case of facilities providing additional project capacity, any other public agency that owns an interest in those facilities, to enter into a contract with the candidate requiring the project entity or other public agency to assume financial responsibility for or provide for the alleviation of any direct impacts experienced by the candidate as a result of the project or facilities providing additional project capacity, as the case may be. Each contract with respect to a project or facilities providing additional project capacity shall be for a term ending at or before the end of the fiscal year of the candidate who is party to the contract immediately before the fiscal year in which the project becomes, or, in the case of facilities providing additional project capacity, those facilities become subject to the fee set forth in Section 11-13-302, unless terminated earlier as provided in Section 11-13-310, and shall specify the direct impacts or methods to determine the direct impacts to be covered, the amounts, or methods of computing the amounts, of the alleviation payments, or the means to provide for impact alleviation, provisions assuring the timely completion of the project or facilities providing additional project capacity and the furnishing of the services, and such other pertinent matters as shall be agreed to by the project entity or other public agency and the candidate.

(3) Beginning at the time specified in Subsection 11-13-302(1), the project entity or other public agency shall make in lieu ad valorem tax payments to that candidate to the extent required by, and in the manner provided in, Section 11-13-302.

(4) Payments under any impact alleviation contract or pursuant to a determination by the board shall be made from the proceeds of bonds issued for the project or for the facilities providing additional project capacity or from any other sources of funds available with respect to the project or the facilities providing additional project capacity.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-306. Procedure in case of inability to formulate contract for impact alleviation.

(1) If the project entity or other public agency and a candidate are unable to agree upon the terms of an impact alleviation contract or to agree that the candidate has or will experience any direct impacts, the project entity or other public agency and the candidate shall each have the right to submit the question of whether or not these direct impacts have been or will be experienced, and any other questions regarding the terms of the impact alleviation contract to the board for its determination.

(2) Within 40 days after receiving a notice of a request for determination, the board shall hold a public hearing on the questions at issue, at which hearing the parties shall have an opportunity to present evidence. Within 20 days after the conclusion of the hearing, the board shall enter an order embodying its determination and directing the parties to act in accordance with it. The order shall contain findings of facts and conclusions of law setting forth the reasons for the board's determination. To the extent that the order pertains to the terms of an impact alleviation contract, the terms of the order shall satisfy the criteria for contract terms set forth in Section 11-13-305.

(3) At any time 20 or more days before the hearing begins, either party may serve upon the adverse party an offer to agree to specific terms or payments. If within 10 days after the service of the offer the adverse party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance, together with proof of service thereof, and the board shall enter a corresponding order. An offer not accepted shall be deemed withdrawn and evidence concerning it is not admissible except in a proceeding to determine costs. If the order finally obtained by the offeree is not more favorable than the offer, the offeree shall pay the costs incurred after the making of the offer, including a reasonable attorney's fee. The fact that an offer is made but not accepted does not preclude a subsequent offer.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-307. Method of amending impact alleviation contract.

An impact alleviation contract or a determination order may be amended with the consent of the parties, or otherwise in accordance with their provisions. In addition, any party may propose an amendment to a contract or order which, if not agreed to by the other parties, may be submitted by the proposing party to the board for a determination of whether or not the amendment shall be incorporated into the contract or order. The board shall determine whether or not a contract or determination order shall be amended under the procedures and standards set forth in Sections 11-13-305 and 11-13-306.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-308. Effect of failure to comply.

The construction or operation of a project or of facilities providing additional project capacity may commence and proceed, notwithstanding the fact that all impact alleviation contracts or determination orders with respect to the project or facilities providing additional project capacity have not been entered into or made or that any appeal or review concerning the contract or determination has not been finally resolved. The failure of the project entity or other public agency to comply with the requirements of this chapter or with the terms of any alleviation contract or determination order or any amendment to them may not be grounds for enjoining the construction or operation of the project or facilities providing additional project capacity.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-309. Venue for civil action -- No trial de novo.

(1) Any civil action seeking to challenge, enforce, or otherwise have reviewed, any order of the board, or any alleviation contract, shall be brought only in the district court for the county within which is located the candidate to which the order or contract pertains. If the candidate is the state of Utah, the action shall be brought in the district court for Salt Lake County. Any action brought in any judicial district shall be ordered transferred to the court where venue is proper under this section.

(2) In any civil action seeking to challenge, enforce, or otherwise review, any

order of the board, a trial de novo may not be held. The matter shall be considered on the record compiled before the board, and the findings of fact made by the board may not be set aside by the district court unless the board clearly abused its discretion.

Amended by Chapter 378, 2010 General Session

11-13-310. Termination of impact alleviation contract.

If the project or any part of it or the facilities providing additional project capacity or any part of them, or the output from the project or facilities providing additional project capacity become subject, in addition to the requirements of Section 11-13-302, to ad valorem property taxation or other payments in lieu of ad valorem property taxation, or other form of tax equivalent payments to any candidate which is a party to an impact alleviation contract with respect to the project or facilities providing additional project capacity or is receiving impact alleviation payments or means with respect to the project or facilities providing additional project capacity pursuant to a determination by the board, then the impact alleviation contract or the requirement to make impact alleviation payments or provide means therefor pursuant to the determination, as the case may be, shall, at the election of the candidate, terminate. In any event, each impact alleviation contract or determination order shall terminate upon the project, or, in the case of facilities providing additional project capacity, those facilities becoming subject to the provisions of Section 11-13-302, except that no impact alleviation contract or agreement entered by a school district shall terminate because of in lieu ad valorem property tax fees levied under Subsection 11-13-302(2)(b)(i) or because of ad valorem property taxes levied under Section 53A-17a-135 for the state minimum school program. In addition, if the construction of the project, or, in the case of facilities providing additional project capacity, of those facilities, is permanently terminated for any reason, each impact alleviation contract and determination order, and the payments and means required thereunder, shall terminate. No termination of an impact alleviation contract or determination order may terminate or reduce any liability previously incurred pursuant to the contract or determination order by the candidate beneficiary under it. If the provisions of Section 11-13-302, or its successor, are held invalid by a court of competent jurisdiction, and no ad valorem taxes or other form of tax equivalent payments are payable, the remaining provisions of this chapter shall continue in operation without regard to the commencement of commercial operation of the last generating unit of that project or of facilities providing additional project capacity.

Amended by Chapter 21, 2003 General Session

11-13-311. Credit for impact alleviation payments against in lieu of ad valorem property taxes -- Federal or state assistance.

(1) In consideration of the impact alleviation payments and means provided by the project entity or other public agency pursuant to the contracts and determination orders, the project entity or other public agency, as the case may be, shall be entitled to a credit against the fees paid in lieu of ad valorem property taxes as provided by Section 11-13-302, ad valorem property or other taxation by, or other payments in lieu

of ad valorem property taxation or other form of tax equivalent payments required by any candidate which is a party to an impact alleviation contract or board order.

(2) Each candidate may make application to any federal or state governmental authority for any assistance that may be available from that authority to alleviate the impacts to the candidate. To the extent that the impact was attributable to the project or to the facilities providing additional project capacity, any assistance received from that authority shall be credited to the alleviation obligation with respect to the project or the facilities providing additional project capacity, as the case may be, in proportion to the percentage of impact attributable to the project or facilities providing additional project capacity, but in no event shall the candidate realize less revenues than would have been realized without receipt of any assistance.

(3) With respect to school districts the fee in lieu of ad valorem property tax for the state minimum school program required to be paid by the project entity or other public agency under Subsection 11-13-302(2)(b)(i) shall be treated as a separate fee and does not affect any credits for alleviation payments received by the school districts under Subsection 11-13-302(2)(b)(i), or Sections 11-13-305 and 11-13-306.

Amended by Chapter 378, 2010 General Session

11-13-312. Exemption from privilege tax.

Title 59, Chapter 4, Privilege Tax, does not apply to a project, or any part of it, or to facilities providing additional project capacity, or any part of them, or to the possession or other beneficial use of a project or facilities providing additional project capacity as long as there is a requirement to make impact alleviation payments, fees in lieu of ad valorem property taxes, or ad valorem property taxes, with respect to the project or facilities providing additional project capacity pursuant to this chapter.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-313. Arbitration of disputes.

Any impact alleviation contract may provide that disputes between the parties will be submitted to arbitration pursuant to Title 78B, Chapter 11, Utah Uniform Arbitration Act.

Amended by Chapter 3, 2008 General Session

11-13-314. Eminent domain authority of certain commercial project entities.

(1) (a) Subject to Subsection (2), a commercial project entity that existed as a project entity before January 1, 1980 may, with respect to a project or facilities providing additional project capacity in which the commercial project entity has an interest, acquire property within the state through eminent domain, subject to restrictions imposed by Title 78B, Chapter 6, Part 5, Eminent Domain, and general law for the protection of other communities.

(b) Subsection (1)(a) may not be construed to:

(i) give a project entity the authority to acquire water rights by eminent domain;

or

(ii) diminish any other authority a project entity may claim to have under the law to acquire property by eminent domain.

(2) Each project entity that intends to acquire property by eminent domain under Subsection (1)(a) shall, upon the first contact with the owner of the property sought to be acquired, deliver to the owner a copy of a booklet or other materials provided by the property rights ombudsman, created under Section 13-43-201, dealing with the property owner's rights in an eminent domain proceeding.

Amended by Chapter 3, 2008 General Session

11-13-315. Taxed interlocal entity.

(1) As used in this section:

(a) "Asset" means funds, money, an account, real or personal property, or personnel.

(b) "Public asset" means:

(i) an asset used by a public entity;

(ii) tax revenue;

(iii) state funds; or

(iv) public funds.

(c) (i) "Taxed interlocal entity" means a project entity that:

(A) is not exempt from a tax or fee in lieu of taxes imposed in accordance with Part 3, Project Entity Provisions;

(B) does not receive a payment of funds from a federal agency or office, state agency or office, political subdivision, or other public agency or office other than a payment that does not materially exceed the greater of the fair market value and the cost of a service provided or property conveyed by the project entity; and

(C) does not receive, expend, or have the authority to compel payment from tax revenue.

(ii) Before and on May 1, 2014, "taxed interlocal entity" includes an interlocal entity that:

(A) (I) was created before 1981 for the purpose of providing power supply at wholesale to its members; or

(II) is described in Subsection 11-13-204(7);

(B) does not receive a payment of funds from a federal agency or office, state agency or office, political subdivision, or other public agency or office other than a payment that does not materially exceed the greater of the fair market value and the cost of a service provided or property conveyed by the interlocal entity; and

(C) does not receive, expend, or have the authority to compel payment from tax revenue.

(d) (i) "Use" means to use, own, manage, hold, keep safe, maintain, invest, deposit, administer, receive, expend, appropriate, disburse, or have custody.

(ii) "Use" includes, when constituting a noun, the corresponding nominal form of each term in Subsection (1)(d)(i), individually.

(2) Notwithstanding any other provision of law, the use of an asset by a taxed interlocal entity does not constitute the use of a public asset.

(3) Notwithstanding any other provision of law, a taxed interlocal entity's use of an asset that was a public asset prior to the taxed interlocal entity's use of the asset does not constitute a taxed interlocal entity's use of a public asset.

(4) Notwithstanding any other provision of law, an official of a project entity is not a public treasurer.

(5) Notwithstanding any other provision of law, a taxed interlocal entity's governing body, as described in Section 11-13-206, shall determine and direct the use of an asset by the taxed interlocal entity.

(6) (a) A taxed interlocal entity is not subject to the provisions of Title 63G, Chapter 6a, Utah Procurement Code.

(b) An agent of a taxed interlocal entity is not an external procurement unit as defined in Section 63G-6a-104.

(7) (a) A taxed interlocal entity is not a participating local entity as defined in Section 63A-3-401.

(b) For each fiscal year of a taxed interlocal entity, the taxed interlocal entity shall provide:

(i) the taxed interlocal entity's financial statements for and as of the end of the fiscal year and the prior fiscal year, including the taxed interlocal entity's balance sheet as of the end of the fiscal year and the prior fiscal year, and the related statements of revenues and expenses and of cash flows for the fiscal year; and

(ii) the accompanying auditor's report and management's discussion and analysis with respect to the taxed interlocal entity's financial statements for and as of the end of the fiscal year.

(c) The taxed interlocal entity shall provide the information described in Subsections (7)(b)(i) and (b)(ii):

(i) in a manner described in Subsection 63A-3-405(3); and

(ii) within a reasonable time after the taxed interlocal entity's independent auditor delivers to the taxed interlocal entity's governing body the auditor's report with respect to the financial statements for and as of the end of the fiscal year.

(d) Notwithstanding Subsections (7)(b) and (c) or a taxed interlocal entity's compliance with one or more of the requirements of Title 63A, Chapter 3, Division of Finance:

(i) the taxed interlocal entity is not subject to Title 63A, Chapter 3, Division of Finance; and

(ii) the information described in Subsection (7)(b)(i) or (ii) does not constitute public financial information as defined in Section 63A-3-401.

(8) (a) A taxed interlocal entity's governing body is not a governing board as defined in Section 51-2a-102.

(b) A taxed interlocal entity is not subject to the provisions of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Enacted by Chapter 230, 2013 General Session

11-14-101. Title.

This chapter is known as the "Local Government Bonding Act."

Enacted by Chapter 105, 2005 General Session

11-14-102. Definitions.

For the purpose of this chapter:

(1) "Bond" means any bond authorized to be issued under this chapter, including municipal bonds.

(2) "Election results" has the same meaning as defined in Section 20A-1-102.

(3) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a local district, the board of trustees of the local district;

(c) for a school district, the local board of education; or

(d) for a special service district under Title 17D, Chapter 1, Special Service District Act:

(i) the governing body of the county or municipality that created the special service district, if no administrative control board has been established under Section 17D-1-301; or

(ii) the administrative control board, if one has been established under Section 17D-1-301 and the power to issue bonds not payable from taxes has been delegated to the administrative control board.

(4) "Local district" means a district operating under Title 17B, Limited Purpose Local Government Entities - Local Districts.

(5) (a) "Local political subdivision" means a county, city, town, school district, local district, or special service district.

(b) "Local political subdivision" does not include the state and its institutions.

Amended by Chapter 360, 2008 General Session

11-14-103. Bond issues authorized -- Purposes -- Use of bond proceeds.

(1) Any local political subdivision may, in the manner and subject to the limitations and restrictions contained in this chapter, issue its negotiable bonds for the purpose of paying all or part of the cost of:

(a) acquiring, improving, or extending any one or more improvements, facilities, or property that the local political subdivision is authorized by law to acquire, improve, or extend;

(b) acquiring, or acquiring an interest in, any one or more or any combination of the following types of improvements, facilities, or property to be owned by the local political subdivision, either alone or jointly with one or more other local political subdivisions, or for the improvement or extension of any of those wholly or jointly owned improvements, facilities, or properties:

(i) public buildings of every nature, including without limitation, offices, courthouses, jails, fire, police and sheriff's stations, detention homes, and any other buildings to accommodate or house lawful activities of a local political subdivision;

(ii) waterworks, irrigation systems, water systems, dams, reservoirs, water treatment plants, and any other improvements, facilities, or property used in connection with the acquisition, storage, transportation, and supplying of water for domestic,

industrial, irrigation, recreational, and other purposes and preventing pollution of water;

(iii) sewer systems, sewage treatment plants, incinerators, and other improvements, facilities, or property used in connection with the collection, treatment, and disposal of sewage, garbage, or other refuse;

(iv) drainage and flood control systems, storm sewers, and any other improvements, facilities, or property used in connection with the collection, transportation, or disposal of water;

(v) recreational facilities of every kind, including without limitation, athletic and play facilities, playgrounds, athletic fields, gymnasiums, public baths, swimming pools, camps, parks, picnic grounds, fairgrounds, golf courses, zoos, boating facilities, tennis courts, auditoriums, stadiums, arenas, and theaters;

(vi) convention centers, sports arenas, auditoriums, theaters, and other facilities for the holding of public assemblies, conventions, and other meetings;

(vii) roads, bridges, viaducts, tunnels, sidewalks, curbs, gutters, and parking buildings, lots, and facilities;

(viii) airports, landing fields, landing strips, and air navigation facilities;

(ix) educational facilities, including without limitation, schools, gymnasiums, auditoriums, theaters, museums, art galleries, libraries, stadiums, arenas, and fairgrounds;

(x) hospitals, convalescent homes, and homes for the aged or indigent; and

(xi) electric light works, electric generating systems, and any other improvements, facilities, or property used in connection with the generation and acquisition of electricity for these local political subdivisions and transmission facilities and substations if they do not duplicate transmission facilities and substations of other entities operating in the state prepared to provide the proposed service unless these transmission facilities and substations proposed to be constructed will be more economical to these local political subdivisions; or

(c) new construction, renovation, or improvement to a state highway within the boundaries of the local political subdivision or an environmental study for a state highway within the boundaries of the local political subdivision.

(2) Except as provided in Subsection (1)(c), any improvement, facility, or property under Subsection (1) need not lie within the limits of the local political subdivision.

(3) A cost under Subsection (1) may include:

(a) the cost of equipment and furnishings for such improvements, facilities, or property;

(b) all costs incident to the authorization and issuance of bonds, including engineering, legal, and fiscal advisers' fees;

(c) costs incident to the issuance of bond anticipation notes, including interest to accrue on bond anticipation notes;

(d) interest estimated to accrue on the bonds during the period to be covered by the construction of the improvement, facility, or property and for 12 months after that period; and

(e) other amounts which the governing body finds necessary to establish bond reserve funds and to provide working capital related to the improvement, facility, or property.

(4) The proceeds from bonds issued on or after May 14, 2013 may not be used:

(a) for operation and maintenance expenses more for than one year after the date any of the proceeds are first used for those expenses; or

(b) for capitalization of interest more than five years after the bonds are issued.

Amended by Chapter 159, 2013 General Session

11-14-201. Election on bond issues -- Qualified electors -- Resolution and notice.

(1) The governing body of any local political subdivision that wishes to issue bonds under the authority granted in Section 11-14-103 shall, at least 75 days before the date of election:

(a) approve a resolution submitting the question of the issuance of the bonds to the voters of the local political subdivision; and

(b) provide a copy of the resolution to:

(i) the lieutenant governor; and

(ii) the election officer, as defined in Section 20A-1-102, charged with conducting the election.

(2) The local political subdivision may not issue the bonds unless the majority of the qualified voters of the local political subdivision who vote on the bond proposition approve the issuance of the bonds.

(3) Nothing in this section requires an election for the issuance of:

(a) refunding bonds; or

(b) other bonds not required by law to be voted on at an election.

(4) The resolution calling the election shall include a ballot proposition, in substantially final form, that complies with the requirements of Subsection 11-14-206(2).

Amended by Chapter 83, 2006 General Session

11-14-202. Notice of election -- Contents -- Publication -- Mailing.

(1) The governing body shall ensure that notice of the election is provided:

(a) once per week during three consecutive weeks by publication in a newspaper having general circulation in the local political subdivision in accordance with Section 11-14-316, the first publication occurring not less than 21 nor more than 35 days before the election;

(b) on a website, if available, in accordance with Section 45-1-101 for the three weeks that immediately precede the election; and

(c) in a local political subdivision where there is no newspaper of general circulation, by posting notice of the bond election in at least five public places in the local political subdivision at least 21 days before the election.

(2) When the debt service on the bonds to be issued will increase the property tax imposed upon the average value of a residence by an amount that is greater than or equal to $15 per year, the governing body shall prepare and mail either a voter information pamphlet or a notification described in Subsection (6):

(a) at least 15 days but not more than 45 days before the bond election;

(b) to each household containing a registered voter who is eligible to vote on the bonds; and

(c) that includes the information required by Subsections (3) and (4).

(3) The notice and voter information pamphlet required by this section shall include:

(a) the date and place of the election;

(b) the hours during which the polls will be open; and

(c) the title and text of the ballot proposition.

(4) The voter information pamphlet required by this section shall include:

(a) the information required by Subsection (3); and

(b) an explanation of the property tax impact, if any, of the issuance of the bonds, which may be based on information the governing body determines to be useful, including:

(i) expected debt service on the bonds to be issued;

(ii) a description of the purpose, remaining principal balance, and maturity date of any outstanding general obligation bonds of the issuer;

(iii) funds other than property taxes available to pay debt service on general obligation bonds;

(iv) timing of expenditures of bond proceeds;

(v) property values; and

(vi) any additional information that the governing body determines may be useful to explain the property tax impact of issuance of the bonds.

(5) The governing body shall pay the costs associated with the notice required by this section.

(6) (a) The governing body may mail a notice printed on a postage prepaid, preaddressed return form that a person may use to request delivery of a voter information pamphlet by mail.

(b) The notice described in Subsection (6)(a) shall include:

(i) the website upon which the voter information pamphlet is available; and

(ii) the phone number a voter may call to request delivery of a voter information pamphlet by mail.

Amended by Chapter 334, 2012 General Session

11-14-203. Time for election -- Equipment -- Election officials -- Combining precincts.

(1) (a) The local political subdivision shall ensure that bond elections are conducted and administered according to the procedures set forth in this chapter and the sections of the Election Code specifically referenced by this chapter.

(b) When a local political subdivision complies with those procedures, there is a presumption that the bond election was properly administered.

(2) (a) A bond election may be held, and the proposition for the issuance of bonds may be submitted, on the same date as the regular general election, the municipal general election held in the local political subdivision calling the bond election, or at a special election called for the purpose on a date authorized by Section 20A-1-204.

(b) A bond election may not be held, nor a proposition for issuance of bonds be submitted, at the Western States Presidential Primary election established in Title 20A, Chapter 9, Part 8, Western States Presidential Primary.

(3) (a) The bond election shall be conducted and administered by the election officer designated in Sections 20A-1-102 and 20A-5-400.5.

(b) (i) The duties of the election officer shall be governed by Title 20A, Chapter 5, Part 4, Election Officer's Duties.

(ii) The publishing requirement under Subsection 20A-5-405(1)(j)(iii) does not apply when notice of a bond election has been provided according to the requirements of Section 11-14-202.

(c) The hours during which the polls are to be open shall be consistent with Section 20A-1-302.

(d) The appointment and duties of election judges shall be governed by Title 20A, Chapter 5, Part 6, Poll Workers.

(e) General voting procedures shall be conducted according to the requirements of Title 20A, Chapter 3, Voting.

(f) The designation of election crimes and offenses, and the requirements for the prosecution and adjudication of those crimes and offenses are set forth in Title 20A, Election Code.

(4) When a bond election is being held on a day when no other election is being held in the local political subdivision calling the bond election, voting precincts may be combined for purposes of bond elections so long as no voter is required to vote outside the county in which the voter resides.

(5) When a bond election is being held on the same day as any other election held in a local political subdivision calling the bond election, or in some part of that local political subdivision, the polling places and election officials serving for the other election may also serve as the polling places and election officials for the bond election, so long as no voter is required to vote outside the county in which the voter resides.

Amended by Chapter 415, 2013 General Session

11-14-204. Challenges to voter qualifications.

(1) Any person's qualifications to vote at a bond election may be challenged according to the procedures and requirements of Sections 20A-3-105.5 and 20A-3-202.

(2) A bond election may not be invalidated on the grounds that ineligible voters voted unless:

(a) it is shown by clear and convincing evidence that ineligible voters voted in sufficient numbers to change the result of the bond election; and

(b) the complaint is filed before the expiration of the time period permitted for contests in Subsection 20A-4-403(3).

(3) The votes cast by the voters shall be accepted as having been legally cast for purposes of determining the outcome of the election, unless the court in a bond election contest finds otherwise.

Renumbered and Amended by Chapter 105, 2005 General Session

11-14-205. Special registration not required -- Official register supplied by clerk.

(1) (a) Voter registration shall be administered according to the requirements of Title 20A, Chapter 2, Voter Registration.

(b) The governing body may not require or mandate any special registration of voters for a bond election.

(2) The county clerk of each county in which a local political subdivision holding the bond election is located shall prepare the official register for the bond election according to the requirements of Section 20A-5-401.

(3) The official register's failure to identify those voters not residing in the local political subdivision holding the bond election, or any inaccuracy in that identification, is not a ground for invalidating the bond election.

Amended by Chapter 83, 2006 General Session

11-14-206. Ballots -- Submission of ballot language -- Form and contents.

(1) At least 75 days before the election, the governing body shall prepare and submit to the election officer:

(a) a ballot title for the bond proposition that includes the name of the local political subdivision issuing the bonds and the word "bond"; and

(b) a ballot proposition that meets the requirements of Subsection (2).

(2) (a) The ballot proposition shall include:

(i) the maximum principal amount of the bonds;

(ii) the maximum number of years from the issuance of the bonds to final maturity;

(iii) the general purpose for which the bonds are to be issued; and

(iv) if issuance of the bonds will require the increase of the property tax imposed upon the average value of a residence by an amount that is greater than or equal to $15 per year, the following information in substantially the following form:

"PROPERTY TAX COST OF BONDS:

If the bonds are issued as planned, an annual property tax to pay debt service on the bonds will be required over a period of ____ years in the estimated amount of $____ on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence and in the estimated amount of $____ on a business property having the same value.

[If applicable] If there are other outstanding bonds, an otherwise scheduled tax decrease may not occur if these bonds are issued.

The foregoing information is only an estimate and is not a limit on the amount of taxes that the governing body may be required to levy in order to pay debt service on the bonds. The governing body is obligated to levy taxes to the extent provided by law in order to pay the bonds."

(b) The purpose of the bonds may be stated in general terms and need not specify the particular projects for which the bonds are to be issued or the specific amount of bond proceeds to be expended for each project.

(c) If the bonds are to be payable in part from tax proceeds and in part from the operating revenues of the local political subdivision, or from any combination of tax

proceeds and operating revenues, the bond proposition may indicate those payment sources, but need not specify how the bonds are to be divided between those sources of payment.

(d) (i) The bond proposition shall be followed by the words, "For the issuance of bonds" and "Against the issuance of bonds," with appropriate boxes in which the voter may indicate his choice.

(ii) Nothing in Subsection (2)(d)(i) prohibits the addition of descriptive information about the bonds.

(3) If a bond proposition is submitted to a vote on the same day as any other election held in the local political subdivision calling the bond election, the bond proposition may be combined with the candidate ballot in a manner consistent with Section 20A-6-301, 20A-6-303, or 20A-6-402.

(4) The ballot form shall comply with the requirements of Title 20A, Chapter 6, Ballot Form.

Amended by Chapter 388, 2010 General Session

11-14-207. Counting and canvassing -- Official finding.

(1) (a) Following the election officer's inspection and count of the ballots in accordance with the procedures of Title 20A, Chapter 4, Part 1, Counting Ballots and Tabulating Results, and Part 2, Transmittal and Disposition of Ballots and Election Returns, the governing body shall meet and canvass the election results.

(b) (i) The governing body of the local political subdivision is the board of canvassers for the bond proposition.

(ii) The board of canvassers shall always consist of a quorum of the governing body.

(c) The canvass of the election results shall be made in public no sooner than seven days after the election and no later than 14 days after the election.

(d) The canvass of election results shall be conducted according to the procedures and requirements of Subsection 20A-4-301(3) and Sections 20A-4-302 and 20A-4-303.

(e) If a bond proposition is submitted to a vote on the same day as any other election held in the local political subdivision calling the bond election, the governing body shall coordinate the date of its canvass with any other board of canvassers appointed under Section 20A-4-301.

(2) (a) After the canvass of election returns, the governing body shall record in its minutes:

(i) an official finding as to the total number of votes cast, the number of affirmative votes, the number of negative votes, the number of challenged voters, the number of challenged voters that were issued a provisional ballot, and the number of provisional ballots that were counted; and

(ii) an official finding that the bond proposition was approved or rejected.

(b) The governing body need not file with the county clerk or with any other official:

(i) any statement or certificate of the election results;

(ii) any affidavit with respect to the facts pertaining to the election; or

(iii) any affidavit pertaining to the indebtedness and valuation of the municipality.

(3) The official finding that the majority of the qualified voters of the local political subdivision voting on the bond proposition approved the issuance of the bonds is conclusive in any action or proceeding involving the validity of the election or involving the determination or declaration of the result of the election if the action is filed after the expiration of the period provided in Subsection 20A-4-403(3).

Amended by Chapter 83, 2006 General Session

11-14-208. Contest of election results -- Procedure.

(1) (a) Any person wishing to contest the results of a bond election shall comply with the procedures and requirements of Title 20A, Chapter 4, Part 4, Recounts and Election Contests.

(b) The local political subdivision calling the election shall be regarded as the defendant.

(2) Unless the complaint is filed within the period prescribed in Subsection 20A-4-403(3), a court may not:

(a) allow an action contesting the bond election to be maintained; or

(b) set aside or hold the bond election invalid.

Enacted by Chapter 105, 2005 General Session

11-14-301. Issuance of bonds by governing body -- Computation of indebtedness under constitutional and statutory limitations.

(1) If the governing body has declared the bond proposition to have carried and no contest has been filed, or if a contest has been filed and favorably terminated, the governing body may proceed to issue the bonds voted at the election.

(2) (a) It is not necessary that all of the bonds be issued at one time, but, except as otherwise provided in this Subsection (2), bonds approved by the voters may not be issued more than 10 years after the day on which the election is held.

(b) The 10-year period described in Subsection (2)(a) is tolled if, at any time during the 10-year period:

(i) an application for a referendum petition is filed with a local clerk, in accordance with Section 20A-7-602 and Subsection 20A-7-601(4)(a), with respect to the local obligation law relating to the bonds; or

(ii) the bonds are challenged in a court of law or an administrative proceeding in relation to:

(A) the legality or validity of the bonds, or the election or proceedings authorizing the bonds;

(B) the authority of the local political subdivision to issue the bonds;

(C) the provisions made for the security or payment of the bonds; or

(D) any other issue that materially and adversely affects the marketability of the bonds, as determined by the individual or body that holds the executive powers of the local political subdivision.

(c) A tolling period described in Subsection (2)(b)(i) ends on the later of the day on which:

(i) the local clerk determines that the petition is insufficient, in accordance with Subsection 20A-7-607(2)(c), unless an application, described in Subsection 20A-7-607(4)(a), is made to the Supreme Court;

(ii) the Supreme Court determines, under Subsection 20A-7-607(4)(c), that the petition for the referendum is not legally sufficient; or

(iii) for a referendum petition that is sufficient, the governing body declares, as provided by law, the results of the referendum election on the local obligation law.

(d) A tolling period described in Subsection (2)(b)(ii) ends after:

(i) there is a final settlement, a final adjudication, or another type of final resolution of all challenges described in Subsection (2)(b)(ii); and

(ii) the individual or body that holds the executive powers of the local political subdivision issues a document indicating that all challenges described in Subsection (2)(b)(ii) are resolved and final.

(e) If the 10-year period described in Subsection (2)(a) is tolled under this Subsection (2) and, when the tolling ends and after giving effect to the tolling, the period of time remaining to issue the bonds is less than one year, the period of time remaining to issue the bonds shall be extended to one year.

(f) The tolling provisions described in this Subsection (2) apply to all bonds described in this section that were approved by voters on or after May 8, 2002.

(3) (a) Bonds approved by the voters may not be issued to an amount that will cause the indebtedness of the local political subdivision to exceed that permitted by the Utah Constitution or statutes.

(b) In computing the amount of indebtedness that may be incurred pursuant to constitutional and statutory limitations, the constitutionally or statutorily permitted percentage, as the case may be, shall be applied to the fair market value, as defined under Section 59-2-102, of the taxable property in the local political subdivision, as computed from the last applicable equalized assessment roll before the incurring of the additional indebtedness.

(c) In determining the fair market value of the taxable property in the local political subdivision as provided in this section, the value of all tax equivalent property, as defined in Section 59-3-102, shall be included as a part of the total fair market value of taxable property in the local political subdivision, as provided in Title 59, Chapter 3, Tax Equivalent Property Act.

(4) Bonds of improvement districts issued in a manner that they are payable solely from the revenues to be derived from the operation of the facilities of the district may not be included as bonded indebtedness for the purposes of the computation.

(5) Where bonds are issued by a city, town, or county payable solely from revenues derived from the operation of revenue-producing facilities of the city, town, or county, or payable solely from a special fund into which are deposited excise taxes levied and collected by the city, town, or county, or excise taxes levied by the state and rebated pursuant to law to the city, town, or county, or any combination of those excise taxes, the bonds shall be included as bonded indebtedness of the city, town, or county only to the extent required by the Utah Constitution, and any bonds not so required to be included as bonded indebtedness of the city, town, or county need not be authorized at an election, except as otherwise provided by the Utah Constitution, the bonds being hereby expressly excluded from the election requirement of Section 11-14-201.

(6) A bond election is not void when the amount of bonds authorized at the election exceeded the limitation applicable to the local political subdivision at the time of holding the election, but the bonds may be issued from time to time in an amount within the applicable limitation at the time the bonds are issued.

Amended by Chapter 204, 2012 General Session

11-14-302. Resolution -- Negotiability -- Registration -- Maturity -- Interest -- Payment -- Redemption -- Combining issues -- Sale -- Financing plan.

(1) (a) Bonds issued under this chapter:

(i) shall:

(A) be authorized by resolution of the governing body;

(B) be fully negotiable for all purposes;

(C) mature at such time or times not more than 40 years from their date;

(D) bear interest at such rate or rates, if any;

(E) be payable at such place or places;

(F) be in such form;

(G) be executed in such manner;

(H) be sold in such manner and at such prices, either at, in excess of, or below face value; and

(I) be issued in such manner and with such details as may be provided by resolution; and

(ii) may be made:

(A) registrable as to principal alone or as to principal and interest; or

(B) redeemable prior to maturity at such times and on such terms.

(b) Interest rate limitations elsewhere appearing in the laws of Utah do not apply to nor limit the rate of interest on bonds issued under this chapter.

(2) (a) If the bonds bear interest at a variable rate or rates, the resolution described in Subsection (1)(a)(i)(A) shall provide for the establishment of a method or methods by which the interest rate or rates on the bonds may be determined.

(b) If the resolution specifies a method by which interest on the bonds may be determined, the resolution shall also specify the maximum rate of interest the bonds may bear.

(c) Bonds voted for different purposes by separate propositions at the same or different bond elections may in the discretion of the governing body be combined and offered for sale as one issue of bonds.

(d) The resolution providing for this combination and the printed bonds for the combined issue shall separately set forth the amount being issued for each of the purposes provided for in each proposition submitted to the electors.

(e) If the local political subdivision has retained a fiscal agent to assist and advise it with respect to the bonds and the fiscal agent has received or is to receive a fee for such services, the bonds may be sold to the fiscal agent but only if the sale is made pursuant to a sealed bid submitted by the fiscal agent at an advertised public sale.

(f) The governing body may, by resolution, delegate to one or more officers of the local political subdivision the authority to:

(i) in accordance with and within the parameters set forth in the resolution, approve the final interest rate or rates, price, principal amount, maturity or maturities, redemption features, and other terms of the bond; and

(ii) approve and execute all documents relating to the issuance of a bond.

(3) (a) (i) All bonds shall be paid by the treasurer of the local political subdivision or the treasurer's duly authorized agent on their respective maturity dates or on the dates fixed for the bonds redemption.

(ii) All bond coupons, other than coupons cancelled because of the redemption of the bonds to which they apply, shall similarly be paid on their respective dates or as soon thereafter as the bonds or coupons are surrendered.

(b) Upon payment of a bond or coupon, the treasurer of the local political subdivision or the treasurer's duly authorized agent, shall perforate the bond or coupon with a device suitable to indicate payment.

(c) Any bonds or coupons which have been paid or cancelled may be destroyed by the treasurer of the local political subdivision or by the treasurer's duly authorized agent.

(4) (a) Bonds, bond anticipation notes, or tax anticipation notes with maturity dates of one year or less may be authorized by a local political subdivision from time to time pursuant to a plan of financing adopted by the governing body.

(b) The plan of financing shall specify the terms and conditions under which the bonds or notes may be issued, sold, and delivered, the officers of the local political subdivision authorized to issue the bonds or notes, the maximum amount of bonds or notes which may be outstanding at any one time, the source or sources of payment of the bonds or notes, and all other details necessary for issuance of the bonds or notes.

(c) Subject to the Constitution, the governing body of the local political subdivision may include in the plan of financing the terms and conditions of agreements which may be entered into by the local political subdivision with banking institutions for letters of credit or for standby letters of credit to secure the bonds or notes, including payment from any legally available source of fees, charges, or other amounts coming due under the agreements entered into by the local political subdivision.

Amended by Chapter 145, 2011 General Session

11-14-303. Bonds, notes, or other obligations of political subdivisions exempt from taxation except corporate franchise tax.

All bonds, notes, or other obligations issued under this chapter or under any other law authorizing the issuance of bonds, notes, or indebtedness by a local political subdivision or any other political subdivision now existing or subsequently created under the laws of Utah, including bonds payable solely from special assessments and tax anticipation indebtedness, and the interest on them shall be exempt from all taxation in this state, except for the corporate franchise tax.

Amended by Chapter 83, 2006 General Session

11-14-304. Facsimile signatures and facsimile seal, use permitted -- Validity of signed bonds.

(1) If the use of a facsimile signature is authorized by the body empowered by law to authorize the issuance of the bonds or other obligations of any agency, instrumentality, or institution of this state or of any municipal corporation, political subdivision, improvement district, taxing district, or other governmental entity within the state, whether or not issued under this chapter, any officer so authorized may execute, authenticate, certify, or endorse, or cause to be executed, authenticated, certified, or endorsed the bond or other obligation, or any certificate required to be executed on the back thereof, with a facsimile signature in lieu of his manual signature if at least one signature required or permitted to be placed on the face thereof shall be manually subscribed. Upon compliance with this chapter by the authorized officer, his facsimile signature has the same legal effect as his manual signature. When any seal is required in the execution, authentication, certification, or endorsement of the bond or other obligation, or any certificate required to be executed on the back thereof, the authorized officer may cause the seal to be printed, engraved, lithographed, stamped, or otherwise placed in facsimile thereon. The facsimile seal has the same legal effect as the impression of the seal.

(2) Bonds or other obligations bearing the signatures (manual or facsimile) of officers in office on the date of the execution thereof shall be valid and binding obligations notwithstanding that before the delivery thereof any or all of the persons whose signatures appear thereon shall have ceased to be officers of the local political subdivision.

Renumbered and Amended by Chapter 105, 2005 General Session

11-14-304.5. Recital in bonds -- Incontestability.

(1) In the resolution authorizing bonds to be issued as provided in this chapter or other applicable law, a local political subdivision may require that the bonds recite that they are issued under authority of this chapter or other applicable law.

(2) (a) A bond recital as provided in Subsection (1) conclusively establishes full compliance with all the provisions of applicable law.

(b) All bonds issued containing a recital as provided in Subsection (1) shall be incontestable for any reason after their delivery for value.

Enacted by Chapter 83, 2006 General Session

11-14-305. Registration, denominations, and exchange of obligations.

(1) As used in this section, "obligations" means bonds, bond anticipation notes, and tax anticipation notes.

(2) Unless otherwise provided by the local political subdivision, Title 15, Chapter 7, Registered Public Obligations Act, governs and applies to all obligations issued in registered form. If Title 15, Chapter 7, Registered Public Obligations Act, is inapplicable to an issue of obligations, Subsection (3) governs and applies with respect to such issue.

(3) Any obligations issued under this chapter may be issued in denominations as determined by the governing body. The governing body may provide for the exchange of any of these obligations after issuance for obligations of larger or smaller

denominations in such manner as may be provided in the authorizing resolution, provided the obligations in changed denominations shall be exchanged for the original obligations in like aggregate principal amounts and in such manner that no overlapping interest is paid; and such obligations in changed denominations shall bear interest at the same rate or rates, if any, shall mature on the same date or dates, shall be as nearly as practicable in the same form except for an appropriate recital as to the exchange, and shall in all other respects, except as to denominations and numbers, be identical with the original obligations surrendered for exchange. Where any exchange is made under this section, the obligations surrendered by the holders at the time of exchange shall be cancelled; any such exchange shall be made only at the request of the holders of the obligations to be surrendered; and the governing body may require all expenses incurred in connection with such exchange, including the authorization and issuance of the new obligations, to be paid by such holders.

Amended by Chapter 83, 2006 General Session

11-14-306. Additional pledge for general obligation bonds -- Revenue bonds -- Resolution.

(1) To the extent constitutionally permissible, local political subdivisions may pledge as an additional source of payment for their general obligation bonds all or any part of revenues, fees, and charges attributable to the operation or availability of facilities or may issue bonds payable solely from such revenues, fees, or charges.

(2) (a) The governing body may issue bonds payable solely from revenues, fees, or charges attributable to extensions and improvements to revenue-producing facilities.

(b) If the governing body issues bonds under Subsection (2)(a), the resolution authorizing these bonds shall set forth as a finding of the governing body:

(i) the value of the then existing facility and the value of this facility after completion of the extensions or improvements proposed to be constructed; and

(ii) that portion of the revenues, fees, or charges derived from the entire facility when the contemplated extensions and improvements are completed which the value of the existing facility bears to the value of the facility after completion shall be considered to be revenue derived from the existing facility and the remainder may be set aside and pledged to the payment of the principal of and interest on the bonds and for the establishment of appropriate reserve fund or funds, and such portion shall be considered to be revenue derived exclusively from the extensions and improvements.

(3) (a) Any resolution or trust indenture authorizing bonds to which such revenues, fees, or charges are pledged may contain such covenants with the future holder or holders of the bonds as to the management and operation of the affected facilities, the imposition, collection, and disposition of rates, fees, and charges for commodities and services furnished thereby, the issuance of future bonds, the creation of future liens and encumbrances against the facilities, the carrying of insurance, the keeping of books and records, the deposit and paying out of revenues, fees, or charges and bond proceeds, the appointment and duties of a trustee, and other pertinent matters as may be considered proper by the governing body.

(b) If the revenue, fee, or charge so pledged involves either sewer or water

revenues, fees, or charges or both sewer and water revenues, fees, or charges, provision may be made for charges for sewer services and water services to be billed in a single bill and for the suspension of water or sewer services, or both, to any customer who shall become delinquent in the payment due for either.

(c) Provision may be made for the securing of such bonds by a trust indenture, but no such indenture shall convey, mortgage, or create any lien upon property of the local political subdivision.

(d) Either the bond resolution or such trust indenture may impose in the holders of the bonds full rights to enforce the provisions thereof, and may include terms and conditions upon which the holders of the bonds or any proportion of them, or a trustee therefor, shall be entitled to the appointment of a receiver who may enter and take possession of the facility or facilities, the revenues, fees, or charges of which are so pledged, and may operate and maintain them, prescribe charges and collect, receive, and apply all revenues, fees, or charges therefrom arising in the same manner as the local political subdivision itself might do.

Amended by Chapter 83, 2006 General Session

11-14-307. Revenue bonds payable out of excise tax revenues.

(1) To the extent constitutionally permissible, a city, town, or county may:

(a) issue bonds payable solely from a special fund into which are to be deposited:

(i) excise taxes levied and collected by the city, town, or county;

(ii) excise taxes levied by the state and rebated pursuant to law to the city, town, or county; or

(iii) a combination of the excise taxes described in Subsections (1)(a)(i) and (ii); or

(b) pledge all or any part of the excise taxes described in Subsection (1)(a) as an additional source of payment for general obligation bonds it issues.

(2) (a) If the covenant is not inconsistent with this chapter, a resolution or trust indenture providing for the issuance of bonds payable in whole or in part from the proceeds of excise tax revenues may contain covenants with the holder or holders of the bonds as to:

(i) the excise tax revenues;

(ii) the disposition of the excise tax revenues;

(iii) the issuance of future bonds; and

(iv) other pertinent matters that are considered necessary by the governing body to assure the marketability of those bonds.

(b) A resolution may also include provisions to insure the enforcement, collection, and proper application of excise tax revenues as the governing body may think proper.

(c) The proceeds of bonds payable in whole or in part from pledged class B or C road funds shall be used to construct, repair, and maintain streets and roads in accordance with Sections 72-6-108 and 72-6-110 and to fund any reserves and costs incidental to the issuance of the bonds.

(d) When any bonds payable from excise tax revenues have been issued, the

resolution or other enactment of the legislative body imposing the excise tax and pursuant to which the tax is being collected, the obligation of the governing body to continue to levy, collect, and allocate the excise tax, and to apply the revenues derived from the excise tax in accordance with the provisions of the authorizing resolution or other enactment, shall be irrevocable until the bonds have been paid in full as to both principal and interest, and is not subject to amendment in any manner that would impair the rights of the holders of those bonds or which would in any way jeopardize the timely payment of principal or interest when due.

(3) (a) The state pledges to and agrees with the holders of any bonds issued by a city, town, or county to which the proceeds of excise taxes collected by the state and rebated to the city, town, or county are devoted or pledged as authorized in this section, that the state will not alter, impair, or limit the excise taxes in a manner that reduces the amounts to be rebated to the city, town, or county which are devoted or pledged as authorized in this section until the bonds or other securities, together with applicable interest, are fully met and discharged.

(b) Nothing in this Subsection (3) precludes alteration, impairment, or limitation of excise taxes if adequate provision is made by law for the protection of the holders of the bonds.

(c) A city, town, or county may include this pledge and undertaking for the state in those bonds.

(4) (a) Outstanding bonds to which excise tax revenues are pledged as the sole source of payment may not at any one time exceed an amount for which the average annual installments of principal and interest will exceed 80% of the total excise tax revenues received by the issuing entity from the collection or rebate of the excise tax revenues during the fiscal year of the issuing entity immediately preceding the fiscal year in which the resolution authorizing the issuance of bonds is adopted.

(b) If an excise tax has not been levied by a city, town, or county for a sufficient period of time to determine the 80% bond payment requirement under Subsection (4)(a), a city, town, or county may use an excise tax revenue that is currently levied within the same geographic coverage area and with the same percentage of collection to determine the amount of excise tax revenues that are expected to be received to determine the 80% bond payment requirement under Subsection (4)(a).

(5) Bonds issued solely from a special fund into which are to be deposited excise tax revenues constitutes a borrowing solely upon the credit of the excise tax revenues received or to be received by the city, town, or county and does not constitute an indebtedness or pledge of the general credit of the city, town, or county.

(6) Before issuing any bonds under this section, a city, town, or county shall comply with Section 11-14-318.

(7) A city, town, or county shall submit the question of whether or not to issue any bonds under this section to voters for their approval or rejection if, within 30 calendar days after the notice required by Section 11-14-318, a written petition requesting an election and signed by at least 20% of the registered voters in the city, town, or county is filed with the city, town, or county.

Amended by Chapter 21, 2008 General Session

11-14-308. Special service district bonds secured by federal mineral lease payments -- Use of bond proceeds -- Bond resolution -- Nonimpairment of appropriation formula -- Issuance of bonds.

(1) Special service districts may:

(a) issue bonds payable, in whole or in part, from federal mineral lease payments which are to be deposited into the Mineral Lease Account under Section 59-21-1 and distributed to special service districts under Subsection 59-21-2(2)(h); or

(b) pledge all or any part of the mineral lease payments described in Subsection (1)(a) as an additional source of payment for their general obligation bonds.

(2) The proceeds of these bonds may be used:

(a) to construct, repair, and maintain streets and roads;

(b) to fund any reserves and costs incidental to the issuance of the bonds and pay any associated administrative costs; and

(c) for capital projects of the special service district.

(3) (a) The special service district board shall enact a resolution authorizing the issuance of bonds which, until the bonds have been paid in full:

(i) shall be irrevocable; and

(ii) may not be amended in any manner that would:

(A) impair the rights of the bond holders; or

(B) jeopardize the timely payment of principal or interest when due.

(b) Notwithstanding any other provision of this chapter, the resolution described in Subsection (3)(a) may contain covenants with the bond holder regarding:

(i) mineral lease payments, or their disposition;

(ii) the issuance of future bonds; or

(iii) other pertinent matters considered necessary by the governing body to:

(A) assure the marketability of the bonds; or

(B) insure the enforcement, collection, and proper application of mineral lease payments.

(4) (a) Except as provided in Subsection (4)(b), the state may not alter, impair, or limit the statutory appropriation formula provided in Subsection 59-21-2(2)(h), in a manner that reduces the amounts to be distributed to the special service district until the bonds and the interest on the bonds are fully met and discharged. Each special service district may include this pledge and undertaking of the state in these bonds.

(b) Nothing in this section:

(i) may preclude the alteration, impairment, or limitation of these bonds if adequate provision is made by law for the protection of the bond holders; or

(ii) shall be construed:

(A) as a pledge guaranteeing the actual dollar amount ultimately received by individual special service districts;

(B) to require the Department of Transportation to allocate the mineral lease payments in a manner contrary to the general allocation method described in Subsection 59-21-2(2)(h); or

(C) to limit the Department of Transportation in making rules or procedures allocating mineral lease payments pursuant to Subsection 59-21-2(2)(h).

(5) (a) The average annual installments of principal and interest on bonds to which mineral lease payments have been pledged as the sole source of payment may

not at any one time exceed:

(i) 80% of the total mineral lease payments received by the issuing entity during the fiscal year of the issuing entity immediately preceding the fiscal year in which the resolution authorizing the issuance of bonds is adopted; or

(ii) if the bonds are issued during the first fiscal year the issuing entity is eligible to receive funds, 60% of the amount estimated by the Department of Transportation to be appropriated to the issuing entity in that fiscal year.

(b) The Department of Transportation is not liable for any loss or damage resulting from reliance on the estimates.

(6) The final maturity date of the bonds may not exceed 15 years from the date of their issuance.

(7) Bonds may not be issued under this section after December 31, 2020.

(8) Bonds which are payable solely from a special fund into which mineral lease payments are deposited constitute a borrowing based solely upon the credit of the mineral lease payments received or to be received by the special service district and do not constitute an indebtedness or pledge of the general credit of the special service district or the state.

Amended by Chapter 1, 2011 Special Session 2

11-14-309. Refunding bonds -- Limitation on redemption of bonds.

(1) Any bond issued under this chapter may be refunded as provided in the Utah Refunding Bond Act.

(2) Nothing contained in this chapter nor in any other law of this state may be construed to permit any local political subdivision to call outstanding bonds for redemption in order to refund those bonds or in order to pay them prior to their stated maturities, unless:

(a) the right to call the bonds for redemption was specifically reserved and stated in the bonds at the time of their issuance; and

(b) all conditions with respect to the manner, price, and time applicable to the redemption as set forth in the proceedings authorizing the outstanding bonds are strictly observed.

(3) A holder of an outstanding bond may not be compelled to surrender the bond for refunding before its stated maturity or optional date of redemption expressly reserved in the bond, even though the refunding might result in financial benefit to the local political subdivision issuing the bond.

Renumbered and Amended by Chapter 105, 2005 General Session

11-14-310. General obligation bonds -- Levy and collection of taxes.

(1) Any bonds issued under this chapter in such manner that they are not payable solely from revenues other than those derived from ad valorem taxes are full general obligations of the local political subdivision, for the prompt and punctual payment of principal of and interest on which the full faith and credit of the local political subdivision are pledged, and the local political subdivision is hereby expressly required, regardless of any limitations which may otherwise exist on the amount of taxes which

the local political subdivision may levy, to provide for the levy and collection annually of ad valorem taxes without limitation as to rate or amount on all taxable property in the local political subdivision fully sufficient for such purpose. If by law ad valorem taxes for the local political subdivision are levied by a board other than its governing body, the taxes for which provision is herein made shall be levied by such other board and the local political subdivision shall be under the duty in due season in each year to provide such other board with all information necessary to the levy of taxes in the required amount. Such taxes shall be levied and collected by the same officers, at the same time and in the same manner as are other taxes levied for the local political subdivision.

(2) If any local political subdivision shall neglect or fail for any reason to levy or collect or cause to be levied or collected sufficient taxes for the prompt and punctual payment of such principal and interest, any person in interest may enforce levy and collection thereof in any court having jurisdiction of the subject matter, and any suit, action or proceeding brought by such person in interest shall be a preferred cause and shall be heard and disposed of without delay. All provisions of the constitution and laws relating to the collection of county and municipal taxes and tax sales shall also apply to and regulate the collection of the taxes levied pursuant to this section, through the officer whose duty it is to collect the taxes and money due the local political subdivision.

Amended by Chapter 83, 2006 General Session

11-14-311. Bond anticipation notes.

(1) (a) If the governing body considers it advisable and in the interests of the local political subdivision to anticipate the issuance of bonds to be issued under this chapter, the governing body may, pursuant to appropriate resolution, issue bond anticipation notes.

(b) Each resolution authorizing the issuance of bond anticipation notes shall:

(i) describe the bonds in anticipation of which the notes are to be issued;

(ii) specify the principal amount of the notes and the maturity dates of the notes; and

(iii) specify either the rates of interest, if any, on the notes or the method by which interest on the notes may be determined while the notes are outstanding.

(c) If the resolution specifies a method by which the interest rates on the notes may be determined, the resolution may specify the maximum rate of interest which the notes may bear.

(2) Bond anticipation notes shall be issued and sold in a manner and at a price, either at, below, or above face value, as the governing body determines by resolution. Interest on bond anticipation notes may be made payable semiannually, annually, or at maturity. Bond anticipation notes may be made redeemable prior to maturity at the option of the governing body in the manner and upon the terms fixed by the resolution authorizing their issuance. Bond anticipation notes shall be executed and shall be in a form and have details and terms as provided in the authorizing resolution.

(3) Contemporaneously with the issuance of the bonds in anticipation of which bond anticipation notes are issued, provision shall be made for the retirement of any outstanding bond anticipation notes.

(4) Whenever the bonds in anticipation of which notes are issued are to be

payable from ad valorem taxes and constitute full general obligations of the local political subdivision, the bond anticipation notes and the interest on them shall be secured by a pledge of the full faith and credit of the local political subdivision in the manner provided in Section 11-14-310 and shall also be made payable from funds derived from the sale of the bonds in anticipation of which the notes are issued. Whenever the bonds in anticipation of which the notes are to be issued are to be payable solely from revenues derived from the operation of revenue-producing facilities, these bond anticipation notes and the interest on them shall be secured by a pledge of the income and revenues derived by the local political subdivision from the revenue-producing facilities and shall also be made payable from funds derived from the sale of the bonds in anticipation of which the notes are issued.

(5) Bond anticipation notes issued under this section may be refunded by the issuance of other bond anticipation notes issued under this section.

(6) Sections 11-14-304, 11-14-305, 11-14-315, 11-14-316, and 11-14-401 apply to all bond anticipation notes issued under this section.

(7) Bonds are not considered to have been issued outside of the 10-year period described in Section 11-14-301, if the issuance of the bonds is anticipated under this section by bond anticipation notes issued before the expiration of the 10-year period.

Amended by Chapter 204, 2012 General Session

11-14-312. Prior bonds validated -- Exceptions.

All bonds issued by any local political subdivision before May 1, 2006, and all proceedings had in the authorization and issuance of them are hereby validated, ratified, and confirmed; and all such bonds are declared to constitute legally binding obligations in accordance with their terms. Nothing in this section shall be construed to affect or validate any bonds, the legality of which is being contested as of May 1, 2006.

Amended by Chapter 83, 2006 General Session

11-14-313. Issuance of negotiable notes or bonds authorized -- Limitation on amount of tax anticipation notes or bonds -- Procedure.

(1) (a) For the purpose of meeting the current expenses of the local political subdivision and for any other purpose for which funds of the local political subdivision may be expended, a local political subdivision may, if authorized by a resolution of its governing body, borrow money by issuing its negotiable notes or bonds in an initial principal amount:

(i) not in excess of 90% of the taxes and other revenues of the local political subdivision for the current fiscal year, if the notes or bonds are issued after the annual tax levy for taxes falling due during the fiscal year in which the notes or bonds are issued;

(ii) not in excess of 75% of the taxes and other revenues of the local political subdivision for the preceding fiscal year, if the notes or bonds are issued prior to the annual tax levy for taxes falling due during the fiscal year in which the bonds or notes are issued; or

(iii) not in excess of 75% of the taxes and other revenues that the governing

body of the local political subdivision estimates that the local political subdivision will receive for the current fiscal year, if the notes or bonds are issued within 24 months following the creation of the local political subdivision.

(b) The proceeds of the notes or bonds shall be applied only in payment of current and necessary expenses and other purposes for which funds of the local political subdivision may be expended.

(c) There shall be included in the annual levy a tax and there shall be provision made for the imposition and collection of sufficient revenues other than taxes sufficient to pay the notes or bonds at maturity.

(d) If the taxes and other revenues in any one year are insufficient through delinquency or uncollectibility of taxes or other cause to pay when due all the lawful debts of the local political subdivision which have been or may hereafter be contracted, the governing body of the local political subdivision is authorized and directed to levy and collect in the next succeeding year a sufficient tax and to provide for the imposition and collection of sufficient revenues other than taxes to pay all of such lawfully contracted indebtedness, and may borrow as provided in this section in anticipation of such tax and other revenues to pay any such lawfully contracted indebtedness.

(e) Each resolution authorizing the issuance of tax anticipation notes or bonds shall:

(i) describe the taxes or revenues in anticipation of which the notes or bonds are to be issued; and

(ii) specify the principal amount of the notes or bonds, any interest rates, including a variable interest rate, the notes or bonds shall bear, and the maturity dates of the notes or bonds, which dates may not extend beyond the last day of the issuing local political subdivision's fiscal year.

(2) Tax anticipation notes or bonds shall be issued and sold in such manner and at such prices, whether at, below, or above face value, as the governing body shall by resolution determine. Tax anticipation notes or bonds shall be in bearer form, except that the governing body may provide for the registration of the notes or bonds in the name of the owner, either as to principal alone, or as to principal and interest. Tax anticipation notes or bonds may be made redeemable prior to maturity at the option of the governing body in the manner and upon the terms fixed by the resolution authorizing their issuance. Tax anticipation notes or bonds shall be executed and shall be in such form and have such details and terms as shall be provided in the authorizing resolution.

(3) The provisions of Sections 11-14-303, 11-14-304, 11-14-305, 11-14-313, 11-14-315, 11-14-316, 11-14-401, 11-14-403, and 11-14-404 shall apply to all tax anticipation notes or bonds issued under this section. In applying these sections to tax anticipation notes, "bond" or "bonds" as used in these sections shall be deemed to include tax anticipation notes.

Amended by Chapter 378, 2010 General Session

11-14-314. Tax anticipation obligations validated.

All obligations issued in anticipation of the collection of taxes and other revenues by any local political subdivision before May 1, 2006, and all proceedings had in the

authorization and issuance of them are validated, ratified, and confirmed; and all these obligations are declared to constitute legally binding obligations in accordance with their terms. Nothing in this section shall be construed to affect or validate any of these obligations, the legality of which is being contested as of May 1, 2006.

Amended by Chapter 83, 2006 General Session

11-14-315. Nature and validity of bonds issued -- Applicability of other statutory provisions -- Budget provision required -- Applicable procedures for issuance.

Bonds issued under this chapter shall have all the qualities of negotiable paper, shall be incontestable in the hands of bona fide purchasers or holders for value and are not invalid for any irregularity or defect in the proceedings for their issuance and sale. This chapter is intended to afford an alternative method for the issuance of bonds by local political subdivisions and may not be so construed as to deprive any local political subdivision of the right to issue its bonds under authority of any other statute, but nevertheless this chapter shall constitute full authority for the issue and sale of bonds by local political subdivisions. The provisions of Section 11-1-1, Utah Code Annotated 1953, are not applicable to bonds issued under this chapter. Any local political subdivision subject to the provisions of any budget law shall in its annual budget make proper provision for the payment of principal and interest currently falling due on bonds issued hereunder, but no provision need be made in any such budget prior to the issuance of the bonds for the issuance thereof or for the expenditure of the proceeds thereof. No ordinance, resolution or proceeding in respect to the issuance of bonds hereunder shall be necessary except as herein specifically required, nor shall the publication of any resolution, proceeding or notice relating to the issuance of the bonds be necessary except as herein required. Any publication made hereunder may be made in any newspaper conforming to the terms hereof in which legal notices may be published under the laws of Utah, without regard to the designation thereof as the official journal or newspaper of the local political subdivision, and as required in Section 45-1-101. No resolution adopted or proceeding taken hereunder shall be subject to referendum petition or to an election other than as herein required. All proceedings adopted hereunder may be adopted on a single reading at any legally convened meeting of the governing body.

Amended by Chapter 378, 2010 General Session

11-14-316. Publication of notice, resolution, or other proceeding -- Contest.

(1) The governing body of any local political subdivision may provide for the publication of any resolution or other proceeding adopted under this chapter:

(a) in a newspaper having general circulation in the local political subdivision; and

(b) as required in Section 45-1-101.

(2) When a resolution or other proceeding provides for the issuance of bonds, the governing body may, in lieu of publishing the entire resolution or other proceeding,

publish a notice of bonds to be issued, titled as such, containing:

(a) the name of the issuer;

(b) the purpose of the issue;

(c) the type of bonds and the maximum principal amount which may be issued;

(d) the maximum number of years over which the bonds may mature;

(e) the maximum interest rate which the bonds may bear, if any;

(f) the maximum discount from par, expressed as a percentage of principal amount, at which the bonds may be sold;

(g) a general description of the security pledged for repayment of the bonds;

(h) the total par amount of bonds currently outstanding that are secured by the same pledge of revenues as the proposed bonds, if any;

(i) information on a method by which an individual may obtain access to more detailed information relating to the outstanding bonds of the local political subdivision;

(j) the estimated total cost to the local political subdivision for the proposed bonds if the bonds are held until maturity, based on interest rates in effect at the time that the local political subdivision publishes the notice; and

(k) the times and place where a copy of the resolution or other proceeding may be examined, which shall be:

(i) at an office of the issuer identified in the notice, during regular business hours of the issuer as described in the notice; and

(ii) for a period of at least 30 days after the publication of the notice.

(3) For a period of 30 days after the publication, any person in interest may contest:

(a) the legality of such resolution or proceeding;

(b) any bonds which may be authorized by such resolution or proceeding; or

(c) any provisions made for the security and payment of the bonds.

(4) A person shall contest the matters set forth in Subsection (3) by filing a verified written complaint in the district court of the county in which he resides within the 30-day period.

(5) After the 30-day period, no person may contest the regularity, formality, or legality of the resolution or proceeding for any reason.

Amended by Chapter 107, 2013 General Session

11-14-317. Bonds as legal investments -- Use as security for the faithful performance of acts.

(1) All bonds issued under this chapter or other applicable law shall be legal investments for:

(a) all trust funds, including those under the jurisdiction of the state;

(b) the funds of all insurance companies, banks, and both commercial and savings and trust companies;

(c) the state school funds; and

(d) all sinking funds under the control of the state treasurer.

(2) If funds may by law be invested in or loaned upon the security of bonds of a county, city, or school district, funds may be invested in or loaned upon the security of the bonds of any other local political subdivision.

(3) If bonds of a county, city, or school district may by law be used as security for the faithful performance on execution of any court or private trust or any other act, the bonds of any other local political subdivision may be used in the same way.

Enacted by Chapter 83, 2006 General Session

11-14-318. Public hearing required.

(1) Before issuing bonds authorized under this chapter, a local political subdivision shall:

(a) in accordance with Subsection (2), provide public notice of the local political subdivision's intent to issue bonds; and

(b) hold a public hearing:

(i) if an election is required under this chapter:

(A) no sooner than 30 days before the day on which the notice of election is published under Section 11-14-202; and

(B) no later than five business days before the day on which the notice of election is published under Section 11-14-202; and

(ii) to receive input from the public with respect to:

(A) the issuance of the bonds; and

(B) the potential economic impact that the improvement, facility, or property for which the bonds pay all or part of the cost will have on the private sector.

(2) A local political subdivision shall:

(a) publish the notice required by Subsection (1)(a):

(i) once each week for two consecutive weeks in the official newspaper described in Section 11-14-316 with the first publication being not less than 14 days before the public hearing required by Subsection (1)(b); and

(ii) on the Utah Public Notice Website, created under Section 63F-1-701, no less than 14 days before the public hearing required by Subsection (1)(b); and

(b) ensure that the notice:

(i) identifies:

(A) the purpose for the issuance of the bonds;

(B) the maximum principal amount of the bonds to be issued;

(C) the taxes, if any, proposed to be pledged for repayment of the bonds; and

(D) the time, place, and location of the public hearing; and

(ii) informs the public that the public hearing will be held for the purposes described in Subsection (1)(b)(ii).

Amended by Chapter 5, 2009 Special Session 1

11-14-401. Short title -- Title to appear on face of bonds -- Effect of future statutes dealing with municipal bond issues.

(1) This chapter is known as the "Local Government Bonding Act."

(2) All bonds issued pursuant to authority contained in this chapter shall contain on their face a recital to that effect, and no chapter hereafter passed by the Legislature amending other chapters under which bonds authorized to be issued by this chapter might be issued or dealing with bond issues of local political subdivisions shall be

construed to affect the authority to proceed under this chapter in the manner herein provided unless such future statute amends this chapter and specifically provides that it is to be applicable to bonds issued under this chapter.

(3) All bonds referencing the prior title of this chapter, "Utah Municipal Bond Act," that were issued prior to May 2, 2005 pursuant to the authority contained in this chapter shall be considered to reference this chapter and shall be construed according to the terms of Subsection (1) as if they refer to the current title of this chapter.

Renumbered and Amended by Chapter 105, 2005 General Session

11-14-402. Exemptions from application of chapter -- Exception.

(1) Except as provided in Subsection (2), this chapter does not apply to bonds issued by the state of Utah nor to bonds or obligations payable solely from special assessments levied on benefited property.

(2) Sections 11-14-303 and 11-14-501 have general application in accordance with their terms.

Renumbered and Amended by Chapter 105, 2005 General Session

11-14-403. Conflict of laws.

To the extent that any one or more provisions of this chapter shall be in conflict with any other law or laws, the provisions of this chapter shall be controlling.

Renumbered and Amended by Chapter 105, 2005 General Session

11-14-404. Severability clause.

If any one or more sentences, clauses, phrases, provisions or sections of this chapter or the application thereof to any set of circumstances shall be held by final judgment of any court of competent jurisdiction to be invalid, the remaining sentences, clauses, phrases, provisions and sections hereof and the application of this chapter to other sets of circumstances shall nevertheless continue to be valid and effective, the legislature hereby declaring that all provisions of this chapter are severable.

Renumbered and Amended by Chapter 105, 2005 General Session

11-14-405. Validity of prior bond issues.

All bonds issued by any local political subdivision before May 1, 2006, and all proceedings had in the authorization and issuance of those bonds are hereby validated, ratified, and confirmed, and all those bonds are declared to constitute legally binding obligations in accordance with their terms. Nothing in this section may be construed to affect or validate any bonds, the legality of which is being contested as of May 1, 2006.

Amended by Chapter 83, 2006 General Session

11-14-406. Application of chapter.

Sections 11-14-201, 11-14-202, 11-14-203, 11-14-204, 11-14-205, and

11-14-207 shall apply to all bond elections held by any local political subdivision and, except as otherwise provided in Section 11-14-402, by any other taxing district or governmental entity whether or not the bonds are issued under authority granted by this chapter.

Amended by Chapter 83, 2006 General Session

11-14-501. Creation and perfection of government security interests.

(1) As used in this section:

(a) "Bonds" means any bond, note, lease, or other obligation of a governmental unit.

(b) "Governmental unit" has the meaning assigned in Section 70A-9a-102.

(c) "Pledge" means the creation of a security interest of any kind.

(d) "Property" means any property or interests in property, other than real property.

(e) "Security agreement" means any resolution, ordinance, indenture, document, or other agreement or instrument under which the revenues, fees, rents, charges, taxes, or other property are pledged to secure the bonds.

(2) This section expressly governs the creation, perfection, priority, and enforcement of a security interest created by the state or a governmental unit of the state, notwithstanding anything in Title 70A, Chapter 9a, Uniform Commercial Code - Secured Transactions, to the contrary.

(3) (a) The revenues, fees, rents, charges, taxes, or other property pledged by a governmental unit for the purpose of securing its bonds are immediately subject to the lien of the pledge.

(b) (i) The lien is a perfected lien upon the effective date of the security agreement.

(ii) The physical delivery, filing, or recording of a security agreement or financing statement under the Uniform Commercial Code or otherwise, or any other similar act, is not necessary to perfect the lien.

(c) The lien of any pledge is valid, binding, perfected, and enforceable from the time the pledge is made.

(d) The lien of the pledge has priority:

(i) based on the time of the creation of the pledge unless otherwise provided in the security agreement; and

(ii) as against all parties having claims of any kind in tort, contract, or otherwise against the governmental unit, regardless of whether or not the parties have notice of the lien.

(e) Each pledge and security agreement made for the benefit or security of any of the bonds shall continue to be effective until:

(i) the principal, interest, and premium, if any, on the bonds have been fully paid;

(ii) provision for payment has been made; or

(iii) the lien created by the security agreement has been released by agreement of the parties in interest or as provided by the security agreement that created the lien.

Amended by Chapter 272, 2007 General Session

11-14a-1. Notice of debt issuance.

(1) For purposes of this chapter:

(a) (i) "Debt" includes bonds, lease purchase agreements, certificates of participation, and contracts with municipal building authorities.

(ii) "Debt" does not include tax and revenue anticipation notes or refunding bonds.

(b) (i) "Local government entity" means a county, city, town, school district, local district, or special service district.

(ii) "Local government entity" does not mean an entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act that has assets over $10,000,000.

(c) "New debt resolution" means a resolution authorizing the issuance of debt wholly or partially to fund a rejected project.

(d) "Rejected Project" means a project for which a local government entity sought voter approval for general obligation bond financing and failed to receive that approval.

(2) Unless a local government entity complies with the requirements of this section, it may not adopt a new debt resolution.

(3) (a) Before adopting a new debt resolution, a local government entity shall:

(i) advertise its intent to issue debt in a newspaper of general circulation:

(A) (I) at least once each week for the two weeks before the meeting at which the resolution will be considered; and

(II) on no less than 1/4 page or a 5 x 7 inch advertisement with type size no smaller than 18 point and surrounded by a 1/4 inch border; and

(B) in accordance with Section 45-1-101, for the two weeks before the meeting at which the resolution will be considered; or

(ii) include notice of its intent to issue debt in a bill or other mailing sent to at least 95% of the residents of the local government entity.

(b) The local government entity shall ensure that the notice:

(i) except for website publication, is at least as large as the bill or other mailing that it accompanies;

(ii) is entitled, in type size no smaller than 24 point, "Intent to Issue Debt"; and

(iii) contains the information required by Subsection (3)(c).

(c) The local government entity shall ensure that the advertisement or notice described in Subsection (3)(a):

(i) identifies the local government entity;

(ii) states that the entity will meet on a day, time, and place identified in the advertisement or notice to hear public comments regarding a resolution authorizing the issuance of debt by the entity and to explain to the public the reasons for the issuance of debt;

(iii) contains:

(A) the name of the entity that will issue the debt;

(B) the purpose of the debt; and

(C) that type of debt and the maximum principal amount that may be issued;

(iv) invites all concerned citizens to attend the public hearing; and

(v) states that some or all of the proposed debt would fund a project whose

general obligation bond financing was rejected by the voters.

(4) (a) The resolution considered at the hearing shall identify:

(i) the type of debt proposed to be issued;

(ii) the maximum principal amount that might be issued;

(iii) the interest rate;

(iv) the term of the debt; and

(v) how the debt will be repaid.

(b) (i) Except as provided in Subsection (4)(b)(ii), the resolution considered at the hearing need not be in final form and need not be adopted or rejected at the meeting at which the public hearing is held.

(ii) The local government entity may not, in the final resolution, increase the maximum principal amount of debt contained in the notice and discussed at the hearing.

(c) The local government entity may adopt, amend and adopt, or reject the resolution at a later meeting without recomplying with the published notice requirements of this section.

Amended by Chapter 388, 2009 General Session

11-17-1. Short title.

This chapter is known as the "Utah Industrial Facilities and Development Act."

Amended by Chapter 206, 1986 General Session

11-17-1.5. Purpose of chapter.

(1) (a) The purposes of this chapter are to stimulate the economic growth of the state, to promote employment and achieve greater industrial development in the state, to maintain or enlarge domestic or foreign markets for Utah industrial products, to authorize municipalities and counties in the state to facilitate capital formation, finance, acquire, own, lease, or sell projects for the purpose of reducing, abating, or preventing pollution and to protect and promote the health, welfare, and safety of the citizens of the state and to improve local health and the general welfare by inducing corporations, persons, or entities engaged in health care services, including hospitals, nursing homes, extended care facilities, facilities for the care of persons with a physical or mental disability, and administrative and support facilities, to locate, relocate, modernize, or expand in this state and to assist in the formation of investment capital with respect thereto.

(b) The Legislature declares that the acquisition or financing, or both, of projects under the Utah Industrial Facilities and Development Act and the issuance of bonds under it constitutes a proper public purpose.

(2) (a) It is declared that the policy of the state is to encourage the development of free enterprise and entrepreneurship for the purpose of the expansion of employment opportunities and economic development.

(b) It is declared that there exists in the state an inadequate amount of locally managed, pooled venture capital in the private sector available to invest in early stage businesses having high growth potential and that can provide jobs for Utah citizens.

(c) It is found that venture capital is required for healthy economic development of sectors of the economy having high growth and employment potential.

(d) It is further found that the public economic development purposes of the state and its counties and municipalities can be fostered by the sale of industrial revenue bonds for the purpose of providing funding for locally managed, pooled new venture and economic development funds in accordance with the provisions of this chapter.

(e) It is declared that in order to assure adequate investment of private capital for these uses, cooperation between private enterprise and state and local government is necessary and in the public interest and that the facilitation of capital accumulation is the appropriate activity of the counties and municipalities of this state and also of the Governor's Office of Economic Development.

(f) It is found that venture capital funds historically, because of the more intensive nature of their relationship with companies in which they invest, tend to concentrate their investments within a relatively close geographical area to their headquarters location.

(g) It is found and declared that investors in economic development or new venture investment funds require for the overall security of their investments reasonable diversification of investment portfolios and that, in the course of this diversification, investments are often syndicated or jointly made among several financial institutions or funds. It is expressly found and declared that an economic development or new venture investment fund shall from time to time for its optimal profitability and efficiency (which are important for the security and profit of bond purchasers providing funds therefor) cooperate with others who may be located outside of Utah or the county or municipality where the fund is headquartered in the making of investments and that the fund shall be free in the interests of reciprocal relationships with other financial institutions and diversification of risks to invest from time to time in enterprises that are located outside of Utah or the counties or municipalities. It is specifically found that such activity by a locally managed fund, funded in whole or in part with the proceeds of bonds sold under this chapter, is within the public purposes of the state and any county or municipality offering the bonds, provided that the fund locates within Utah or the county or municipality its headquarters where its actual investment decisions and management functions occur and limits the aggregate amount of its investments in companies located outside of Utah to an amount that in the aggregate does not exceed the aggregate amount of investments made by institutions and funds located outside of Utah in Utah companies, that the locally managed fund has sponsored or in which it has invested and that it has brought to the attention of investors outside of Utah.

Amended by Chapter 378, 2010 General Session

11-17-2. Definitions.

As used in this chapter:

(1) "Bonds" means bonds, notes, or other evidences of indebtedness.

(2) "Energy efficiency upgrade" means an improvement that is permanently affixed to real property and that is designed to reduce energy consumption, including:

(a) insulation in:

(i) a wall, ceiling, roof, floor, or foundation; or

(ii) a heating or cooling distribution system;

(b) an insulated window or door, including:

(i) a storm window or door;

(ii) a multiglazed window or door;

(iii) a heat-absorbing window or door;

(iv) a heat-reflective glazed and coated window or door;

(v) additional window or door glazing;

(vi) a window or door with reduced glass area; or

(vii) other window or door modifications that reduce energy loss;

(c) an automatic energy control system;

(d) in a building or a central plant, a heating, ventilation, or air conditioning and distribution system;

(e) caulking or weatherstripping;

(f) a light fixture that does not increase the overall illumination of a building unless an increase is necessary to conform with the applicable building code;

(g) an energy recovery system;

(h) a daylighting system;

(i) measures to reduce the consumption of water, through conservation or more efficient use of water, including:

(i) installation of a low-flow toilet or showerhead;

(ii) installation of a timer or timing system for a hot water heater; or

(iii) installation of a rain catchment system; or

(j) any other modified, installed, or remodeled fixture that is approved as a utility cost-savings measure by the governing body.

(3) "Finance" or "financing" includes the issuing of bonds by a municipality, county, or state university for the purpose of using a portion, or all or substantially all of the proceeds to pay for or to reimburse the user, lender, or the user or lender's designee for the costs of the acquisition of facilities of a project, or to create funds for the project itself where appropriate, whether these costs are incurred by the municipality, the county, the state university, the user, or a designee of the user. If title to or in these facilities at all times remains in the user, the bonds of the municipality or county shall be secured by a pledge of one or more notes, debentures, bonds, other secured or unsecured debt obligations of the user or lender, or the sinking fund or other arrangement as in the judgment of the governing body is appropriate for the purpose of assuring repayment of the bond obligations to investors in accordance with their terms.

(4) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for the military installation development authority created in Section 63H-1-201, the authority board, as defined in Section 63H-1-102;

(c) for a state university except as provided in Subsection (4)(d), the board or body having the control and supervision of the state university; and

(d) for a nonprofit corporation or foundation created by and operating under the auspices of a state university, the board of directors or board of trustees of that corporation or foundation.

(5) (a) "Industrial park" means land, including all necessary rights,

appurtenances, easements, and franchises relating to it, acquired and developed by a municipality, county, or state university for the establishment and location of a series of sites for plants and other buildings for industrial, distribution, and wholesale use.

(b) "Industrial park" includes the development of the land for an industrial park under this chapter or the acquisition and provision of water, sewerage, drainage, street, road, sidewalk, curb, gutter, street lighting, electrical distribution, railroad, or docking facilities, or any combination of them, but only to the extent that these facilities are incidental to the use of the land as an industrial park.

(6) "Lender" means a trust company, savings bank, savings and loan association, bank, credit union, or any other lending institution that lends, loans, or leases proceeds of a financing to the user or a user's designee.

(7) "Mortgage" means a mortgage, trust deed, or other security device.

(8) "Municipality" means any incorporated city or town in the state, including cities or towns operating under home rule charters.

(9) "Pollution" means any form of environmental pollution including water pollution, air pollution, pollution caused by solid waste disposal, thermal pollution, radiation contamination, or noise pollution.

(10) (a) "Project" means:

(i) an industrial park, land, interest in land, building, structure, facility, system, fixture, improvement, appurtenance, machinery, equipment, or any combination of them, whether or not in existence or under construction:

(A) that is suitable for industrial, manufacturing, warehousing, research, business, and professional office building facilities, commercial, shopping services, food, lodging, low income rental housing, recreational, or any other business purposes;

(B) that is suitable to provide services to the general public;

(C) that is suitable for use by any corporation, person, or entity engaged in health care services, including hospitals, nursing homes, extended care facilities, facilities for the care of persons with a physical or mental disability, and administrative and support facilities; or

(D) that is suitable for use by a state university for the purpose of aiding in the accomplishment of its authorized academic, scientific, engineering, technical, and economic development functions;

(ii) any land, interest in land, building, structure, facility, system, fixture, improvement, appurtenance, machinery, equipment, or any combination of them, used by any individual, partnership, firm, company, corporation, public utility, association, trust, estate, political subdivision, state agency, or any other legal entity, or its legal representative, agent, or assigns, for the reduction, abatement, or prevention of pollution, including the removal or treatment of any substance in process material, if that material would cause pollution if used without the removal or treatment;

(iii) an energy efficiency upgrade;

(iv) a renewable energy system;

(v) facilities, machinery, or equipment, the manufacturing and financing of which will maintain or enlarge domestic or foreign markets for Utah industrial products; or

(vi) any economic development or new venture investment fund to be raised other than from:

(A) municipal or county general fund money;

(B) money raised under the taxing power of any county or municipality; or

(C) money raised against the general credit of any county or municipality.

(b) "Project" does not include any property, real, personal, or mixed, for the purpose of the construction, reconstruction, improvement, or maintenance of a public utility as defined in Section 54-2-1.

(11) "Renewable energy system" means a product, system, device, or interacting group of devices that is permanently affixed to real property and that produces energy from renewable resources, including:

(a) a photovoltaic system;

(b) a solar thermal system;

(c) a wind system;

(d) a geothermal system, including:

(i) a direct-use system; or

(ii) a ground source heat pump system;

(e) a micro-hydro system; or

(f) another renewable energy system approved by the governing body.

(12) "State university" means an institution of higher education as described in Section 53B-2-101 and includes any nonprofit corporation or foundation created by and operating under their authority.

(13) "User" means the person, whether natural or corporate, who will occupy, operate, maintain, and employ the facilities of, or manage and administer a project after the financing, acquisition, or construction of it, whether as owner, manager, purchaser, lessee, or otherwise.

Amended by Chapter 345, 2013 General Session

11-17-3. Powers of municipalities, counties, and state universities.

(1) A municipality, county, and state university may:

(a) finance or acquire, whether by construction, purchase, devise, gift, exchange, or lease, or any one or more of those methods, and construct, reconstruct, improve, maintain, equip, and furnish or fund one or more projects, within this state, and which shall be located within, or partially within, the municipality or county or within the county within which a state university is located, unless an agreement under Title 11, Chapter 13, Interlocal Cooperation Act, has been entered into as authorized by Subsection (5), except that if a governing body finds, by resolution, that the effects of international trade practices have been or will be adverse to Utah manufacturers of industrial products and, therefore, it is desirable to finance a project in order to maintain or enlarge domestic or foreign markets for Utah industrial products, a project may consist of the financing on behalf of a user of the costs of acquiring industrial products manufactured in, and which are to be exported from, the state;

(b) finance for, sell, lease, contract the management of, or otherwise dispose of to, any person, firm, partnership, or corporation, either public or private, including without limitation any person, firm, partnership, or corporation engaged in business for a profit, any or all of its projects upon the terms and conditions as the governing body considers advisable and which do not conflict with this chapter;

(c) issue revenue bonds for the purpose of defraying the cost of financing,

acquiring, constructing, reconstructing, improving, maintaining, equipping, furnishing, or funding any project and secure the payment of the bonds as provided in this chapter, which revenue bonds may be issued in one or more series or issues where considered advisable, and each series or issue may contain different maturity dates, interest rates, priorities on securities available for guaranteeing payment of them, and other differing terms and conditions considered necessary and not in conflict with this chapter;

(d) (i) grant options to renew any lease with respect to any project and to buy any project at a price the governing body considers desirable; and

(ii) sell and convey any real or personal property acquired under Subsection (1)(a) at public or private sale, and make an order respecting the sale considered conducive to the best interests of the municipality, county, or state university, the sale or conveyance to be subject to the terms of any lease but to be free and clear of any other encumbrance;

(e) establish, acquire, develop, maintain, and operate industrial parks; and

(f) offer to the holders of its bonds issued under this chapter the right, where its governing body considers it appropriate, to convert the bonds or some portion of the bond obligation into an equity position in some or all of the assets developed with the proceeds of the bond offering.

(2) (a) An economic development or new venture investment fund is considered to be located in the municipality or county where its headquarters is located or where any office of it is located, if it is headquartered within the state.

(b) An economic development or new venture investment fund need not make all of its investments within the state or the county or municipality, if it:

(i) locates within the state, the county, or the municipality its headquarters where its actual investment decisions and management functions occur; and

(ii) limits the aggregate amount of its investments in companies located outside the state to an amount which in the aggregate does not exceed the aggregate amount of investments made by institutions and funds located outside the state in companies headquartered in Utah which the locally managed fund has sponsored or in which it has invested and which it has brought to the attention of investors outside the state.

(c) (i) For purposes of enabling an offering of bonds to fund a fund described in this Subsection (2), a certification of an executive managerial officer of the manager of the fund of the intention to comply with this provision may be relied upon.

(ii) A fund shall at least annually certify to the governmental offeror of the bonds its compliance with this provision.

(3) (a) Before any municipality, county, or state university issues revenue bonds under this chapter for the purpose of defraying the cost of acquiring, constructing, reconstructing, improving, maintaining, equipping, or furnishing any industrial park project, the governing body of the state university, county, or municipality shall:

(i) adopt and establish a plan of development for the tracts of land to constitute the industrial park; and

(ii) by resolution, find:

(A) that the project for the establishment of the industrial park is well conceived and has a reasonable prospect of success, and that the project will tend to provide proper economic development of the municipality or county and will encourage industry to locate within or near the municipality or county; or

(B) in the case of state universities, will further, through industrial research and development, the instructional progress of the state university.

(b) There may be included as a part of any plan of development for any industrial park:

(i) zoning regulations, including:

(A) restrictions on usage of sites within the boundaries of the industrial park;

(B) minimum size of sites; and

(C) parking and loading regulations; and

(ii) methods for the providing and furnishing of police and fire protection and for the furnishing of other municipal or county services which are considered necessary in order to provide for the maintenance of the public health and safety.

(c) If any water or sewerage facilities are to be acquired as part of the development of the land for an industrial park under this chapter, water and sewerage facilities may be acquired as part of the issue of bonds issued under this chapter, through the issuance of bonds payable from water and sewer charges as provided by law, in combination with an issue of refunding bonds, in combination with an issue of bonds upon the consent of the holders of outstanding bonds issued for the same purpose, in combination with bonds issued for the purposes of financing water and sewer facilities which will not be a part of an industrial park, or in any combination of the foregoing.

(d) (i) A municipality, county, or state university establishing an industrial park may lease any land acquired and developed as part of an industrial park to one or more lessees.

(ii) The lessee may sublease all or a portion of the land so leased from the municipality or county.

(iii) A municipality, county, or state university may sell or lease land in connection with the establishment, acquisition, development, maintenance, and operation of an industrial park project.

(iv) A lease or sale of land shall be undertaken only after the adoption by the governing body of a resolution authorizing the lease or sale of the land for industrial park purposes.

(4) (a) (i) A municipality, county, or state university may not:

(A) operate any project under this section, as a business or in any other manner, except as the lessor or administrator of it; or

(B) acquire any project, or any part of it, by condemnation.

(ii) The provisions of Subsection (4)(a)(i) do not apply to projects involving research conducted, administered, or managed by a state university.

(b) Except for a project described in Subsection 11-17-2(10)(a)(ii) or (vi), a municipality, county, or state university may not, under this chapter, acquire or lease projects, or issue revenue bonds for the purpose of defraying the cost of any project or part of it, used for the generation, transmission, or distribution of electric energy beyond the project site, or the production, transmission, or distribution of natural gas.

(5) (a) A municipality, county, or state university may enter, either before or after the bonds have been issued, into interlocal agreements under Title 11, Chapter 13, Interlocal Cooperation Act, with one or more municipalities, counties, state universities, or special service districts created under Title 17D, Chapter 1, Special Service District

Act, in order to accomplish economies of scale or other cost savings and any other additional purposes to be specified in the interlocal agreement, for the issuance of bonds under this chapter on behalf of all of the signatories to the interlocal agreement by one of the municipalities, counties, or state universities which is a signatory to the interlocal agreement for the financing or acquisition of projects qualifying as a project.

(b) For all purposes of Section 11-13-207 the signatory to the interlocal agreement designated as the issuer of the bonds constitutes the administrator of the interlocal agreement.

(6) Notwithstanding the provisions of Subsection (4), the governing body of any state university owning or desiring to own facilities or administer projects may:

(a) become a signatory to the interlocal agreement under Subsection (5);

(b) enter into a separate security agreement with the issuer of the bonds, as provided in Section 11-17-5 for the financing or acquisition of a project to be owned by the state university;

(c) enter into agreements to secure the obligations of the state university under a security agreement entered into under Subsection (6)(b), or to provide liquidity for the obligations including, without limitation, letter of credit agreements with banking institutions for letters of credit or for standby letters of credit, reimbursement agreements with financial institutions, line of credit agreements, standby bond purchase agreements, and to provide for payment of fees, charges, and other amounts coming due under the agreements entered into under the authority contained in this Subsection (6)(c);

(d) provide in security agreements entered into under Subsection (6)(b) and in agreements entered into under Subsection (6)(c) that the obligations of the state university under an agreement shall be special obligations payable solely from the revenues derived from the operation or management of the project, owned by the state university and from net profits from proprietary activities and any other revenues pledged other than appropriations by the Utah Legislature, and the governing body of the state university shall pledge all or any part of the revenues to the payment of its obligations under an agreement; and

(e) in order to secure the prompt payment of the obligations of the state university under a security agreement entered into under Subsection (6)(b) or an agreement entered into under Subsection (6)(c) and the proper application of the revenues pledged to them, covenant and provide appropriate provisions in an agreement to the extent allowed under Section 53B-21-102.

(7) Notwithstanding the provisions of Subsection (4), the governing body of any municipality, county, or special service district owning, desiring to own, or administering projects or facilities may:

(a) become a signatory to the interlocal agreement provided in Subsection (5);

(b) enter into a separate security agreement with the issuer of the bonds, as provided in Section 11-17-5, for the financing or acquisition of a project to be owned by the municipality, county, or special service district, except that no municipality, county, or special service district may mortgage the facilities financed or acquired;

(c) enter into agreements to secure the obligations of the municipality, county, or special service district, as the case may be, under a security agreement entered into under Subsection (7)(b), or to provide liquidity for the obligations including, without

limitation, letter of credit agreements with banking institutions for letters of credit or for standby letters of credit, reimbursement agreements with financial institutions, line of credit agreements, standby bond purchase agreements, and to provide for payment of fees, charges, and other amounts coming due under the agreements entered into under the authority contained in this Subsection (7)(c);

(d) provide in security agreements entered into under Subsection (7)(b) and in agreements entered into under Subsection (7)(c) that the obligations of the municipality, county, or special service district, as the case may be, under an agreement shall be special obligations payable solely from the revenues derived from the operation or management of the project, owned by the municipality, county, or special service district and the governing body of the municipality, county, or special service district shall pledge all or any part of the revenues to the payment of its obligations under an agreement; and

(e) in order to secure the prompt payment of obligations under a security agreement entered into under Subsection (7)(b) or an agreement entered into under Subsection (7)(c) and the proper application of the revenues pledged to them, covenant and provide appropriate provisions in an agreement to the extent permitted and provided for with respect to revenue obligations under Section 11-14-306.

(8) In connection with the issuance of bonds under this chapter, a municipality, county, or state university may:

(a) provide for the repurchase of bonds tendered by their owners and may enter into an agreement to provide liquidity for the repurchases, including a letter of credit agreement, line of credit agreement, standby bond purchase agreement, or other type of liquidity agreement;

(b) enter into remarketing, indexing, tender agent, or other agreements incident to the financing of the project or the performance of the issuer's obligations relative to the bonds; and

(c) provide for payment of fees, charges, and other amounts coming due under the agreements entered into under Subsection (6).

Amended by Chapter 345, 2013 General Session

11-17-3.5. Powers of Military Installation Development Authority.

The military installation development authority, created in Section 63H-1-201, is subject to and governed by the provisions of this chapter to the same extent as if the military installation development authority were a municipality.

Enacted by Chapter 92, 2009 General Session

11-17-4. Bonds -- Limitations -- Form and provisions -- Sale -- Negotiability.

(1) All bonds issued by a municipality or county under this chapter shall be limited obligations of the municipality or county. Bonds and interest coupons issued under this chapter may not constitute nor give rise to a general obligation or liability of the municipality or county or a charge against its general credit or taxing powers. Such limitation shall be plainly stated upon the face of such bonds.

(2) The bonds referred to in Subsection (1) may be authorized by resolution of the governing body, and may:

(a) be executed and delivered at any time and from time to time;

(b) be in such form and denominations;

(c) be of such tenor;

(d) be in registered or bearer form either as to principal or interest or both;

(e) be payable in such installments and at such time or times as the governing body may deem advisable;

(f) be payable at such place or places either within or without the state of Utah;

(g) bear interest at such rate or rates, payable at such place or places, and evidenced in such manner;

(h) be redeemable prior to maturity, with or without premium;

(i) be convertible into equity positions in any asset or assets acquired or developed with the proceeds of the sale of the bonds; and

(j) contain such other provisions not inconsistent with this chapter as shall be deemed for the best interests of the municipality or county and provided for in the proceedings of the governing body under which the bonds shall be authorized to be issued.

(3) Any bonds issued under this chapter may be sold at public or private sale in such manner and at such time or times as may be determined by the governing body to be most advantageous. The municipality or county may pay all expenses, premiums, and commissions which the governing body may deem necessary or advantageous in connection with the authorization, sale, and issuance of such bonds from the proceeds of the sale of such bonds or from the revenues of the project or projects.

(4) All bonds issued under this chapter and all interest coupons applicable thereto shall be construed to be negotiable instruments, despite the fact that they are payable solely from a specified source.

Amended by Chapter 378, 2010 General Session

11-17-4.6. Bonds -- Terms specified by governing body.

The proceedings of the governing body under which the bonds are authorized to be issued may:

(1) if the bonds bear interest at a variable rate or rates, specify the methods, formulas, or indices by which the interest rate or rates on the bonds may be determined;

(2) specify the terms and conditions under which the bonds may be issued, sold, and delivered, the officer of the issuing municipality, county, or state university responsible for the issuance, execution, and delivery of the bonds, the maximum amount of bonds which may be outstanding at any one time, the source of payment of the bonds, which may include the proceeds of refunding bonds issued under this chapter, and all other details necessary or appropriate for the issuance of bonds not inconsistent with this chapter; and

(3) delegate, by resolution, to one or more officers of the issuing municipality, county, or state university the authority to:

(a) in accordance with and within the parameters set forth in the resolution,

approve the final interest rate or rates, price, principal amount, maturity or maturities, redemption features, and other terms of the bond; and

(b) approve and execute all documents relating to the issuance of the bonds.

Amended by Chapter 145, 2011 General Session

11-17-5. Security for bonds -- Provisions in security agreements -- Limitations -- Liens.

(1) The principal of and interest on any bonds issued under this chapter:

(a) shall be secured by a pledge and assignment of the revenues out of which the bonds are made payable or by such other sinking fund or security provision as shall in the judgment of the governing body be reasonably designed to assure payment of the obligations to the purchasers thereof; however, the bond purchasers may not in any event have recourse against the general funds or general credit of the governmental offeror;

(b) may be secured by a mortgage covering all or any part of the project; and

(c) may be secured by any other security device deemed most advantageous by the governing body issuing the bonds.

(2) The proceedings under which the bonds are authorized to be issued under this chapter and any mortgage given to secure them may contain any agreements and provisions customarily contained in instruments securing bonds, including, without limiting the generality of the foregoing, provisions respecting:

(a) the fixing and collection of revenues for any project covered by the proceedings or mortgage;

(b) the terms to be incorporated in the lease, installment purchase agreement, rental agreement, mortgage, trust indenture, loan agreement, financing agreement, or other agreement for the project;

(c) the maintenance and insurance of the project;

(d) the creation and maintenance of special funds from the revenues of projects; and

(e) the rights and remedies available in the event of a default to the bondholders or to the trustee under a mortgage, all as the governing body deems advisable and which is not in conflict with this chapter, except that in making any agreements or provisions a municipality or county may not obligate itself except with respect to the project and the application of the revenues from it and may not incur a general obligation or liability or a charge upon its general credit or against its taxing powers.

(3) The proceedings authorizing any bonds under this chapter and any mortgage securing bonds may provide that, in the event of a default in the payment of the principal of or the interest on the bonds or in the performance of any agreement contained in the proceedings or mortgage, payment and performance may be enforced by the appointment of a receiver with power to charge and collect the revenues from the project and to apply the revenues from the project in accordance with the proceedings or the provisions of the mortgage.

(4) Any mortgage made under this chapter to secure bonds issued under it may also provide that, in the event of a default in payment or the violation of any agreement contained in the mortgage, the mortgage may be foreclosed or otherwise realized on in

any manner permitted by law. The mortgage may also provide that any trustee under the mortgage or the holder of any of the bonds secured by the mortgage may become the purchaser at any foreclosure sale if the highest bidder. No breach of any agreement imposes any general obligation or liability upon a municipality or county or any charge upon their general credit or against their taxing powers.

(5) The revenues pledged and received are immediately subject to the lien of the pledge without any physical delivery of any lease, purchase agreement, financing agreement, loan agreement, note, debenture, bond, or other obligation under which the revenues are payable, or any other act, except that the proceedings or agreement by which the pledge is created shall be recorded in the records of the municipality, county, or state university. The proceedings or agreement by which the pledge is created, or a financing statement, need not be filed or recorded under the Uniform Commercial Code, or otherwise, except in the records of the municipality, county, or state university as provided in this Subsection (5). The lien of any pledge is valid and binding and has priority as against all parties having claims of any kind in tort, contract, or otherwise against the municipality, county, or state university, irrespective of whether the parties have notice of the lien. Each pledge and agreement made for the benefit or security of any of the revenue bonds issued under this chapter shall continue effective until the principal, interest, and premium, if any, on the revenue bonds have been fully paid or provision for payment has been made.

Amended by Chapter 378, 2010 General Session

11-17-6. Refunding bonds.

Any bonds issued under this act and at any time outstanding may at any time and from time to time be refunded either in advance or by exchange by a municipality or county by the issuance of its refunding bonds in such amount as the governing body may deem necessary. Any such refunding may be effected whether the bonds to be refunded shall have then matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds from same to the payment of the bonds to be refunded by such refunding bonds or by exchange of the refunding bonds for the bonds to be refunded by such refunding bonds. Any refunding bonds issued under this act shall be subject to the provisions contained in Section 11-17-4 and may be secured in accordance with the provisions of Section 11-17-5.

Enacted by Chapter 29, 1967 General Session

11-17-7. Disposition of proceeds of bonds.

The proceeds from the sale of any bonds issued under this act shall be applied only for the purposes for which the bonds were issued; but any accrued interest and premium received upon any such sale shall be applied to the payment of the principal of or the interest on the bonds sold, and if for any reason any portion of such proceeds are not needed for the purposes for which the bonds were issued, then such unneeded portion of such proceeds shall be applied to the payment of the principal of or the interest on such bonds or in accordance with such other plan or device for the furtherance of the project and the protection of the bondholder as the governing body

shall deem appropriate under the circumstances.

Amended by Chapter 378, 2010 General Session

11-17-8. Items included in cost of project.

The cost of acquiring or improving any project includes the following:

(1) the actual cost of acquiring or improving real estate;

(2) the actual cost of enlarging, constructing, reconstructing, improving, maintaining, equipping, or furnishing all or any part of a project which may be constructed, including architects' or engineers' fees;

(3) all expenses in connection with the authorization, sale, and issuance of the bonds to finance such acquisition or improvement, enlargement, construction, reconstruction, improvement, maintenance, equipping, or furnishing, including legal fees, financial advisers fees, letter of credit fees, line of credit or other liquidity agreement fees, bank acceptance fees, fees of tender agents, remarketing agents and indexing agents, premiums for bond insurance or insurance of the obligations of users under security agreements, printing costs, underwriters' discount, reserves to pay principal and interest on the bonds, and the interest on bonds for a reasonable time prior to construction, during construction, and for a reasonable period of time after completion of construction; and

(4) amounts to pay or discharge, or provide for the payment and discharge of, any existing indebtedness incurred to finance or refinance hospital, nursing home, or extended care facility property owned by a user for which a project is to be undertaken under this chapter.

Amended by Chapter 128, 1985 General Session

11-17-9. Commingling of bond proceeds or revenues with other funds prohibited.

No part of the proceeds received from the sale of any bonds issued under this act, of any revenues derived from any project acquired or held under this act, or of any interest realized on money received under this act shall be commingled by the county or municipality with other funds of such county or municipality.

Enacted by Chapter 29, 1967 General Session

11-17-10. Tax exemption for property and bonds -- Exception.

All property acquired or held by the county or municipality under this chapter is declared to be public property used for essential public and governmental purposes; and all such property and bonds issued under this chapter and the income from them are exempt from all taxes imposed by the state, any county, any municipality, or any other political subdivision of the state, except for the corporate franchise tax. This exemption does not extend to the interests of any private person, firm, association, partnership, corporation, or other private business entity in such property or in any other property such business entity may place upon or use in connection with any project, all of which shall be subject to the provisions of Section 59-4-101 and all other applicable

laws nor to any income of such private business entity, which, except as provided in this section for such bonds and the income from them, shall be subject to all applicable laws, regarding the taxing of such income.

Amended by Chapter 378, 2010 General Session

11-17-11. Construction of act.

Neither this act nor anything contained in it shall be construed as a restriction or limitation upon any powers which a county or municipality might otherwise have under any laws of this state.

Enacted by Chapter 29, 1967 General Session

11-17-12. Bonds -- Eligibility as investments and for use as security.

Bonds issued under this act are hereby made securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, credit unions, building and loan associations, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries, pension, profit-sharing and retirement funds may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now or may hereafter be authorized by law.

Enacted by Chapter 29, 1967 General Session

11-17-13. Pledge and undertaking for the state.

The state of Utah does hereby pledge to and agree with the holders of any bonds issued under this act and with those parties who may enter into contracts with any county or municipality under this act, that the state will not alter, impair or limit the rights thereby vested until the bonds, together with applicable interest, are fully met and discharged and such contracts are fully performed. Nothing contained in this act shall preclude such alteration, impairment or limitation if and when adequate provision shall be made by law for the protection of the holders of the bonds or persons entering into contracts with any county or municipality. Each county and municipality is authorized to include this pledge and undertaking for the state in such bonds or contracts.

Enacted by Chapter 29, 1967 General Session

11-17-14. Uniform Commercial Code not applicable.

Bonds issued under this act are exempt from the provisions of the Uniform Commercial Code, Title 70A.

Enacted by Chapter 29, 1967 General Session

11-17-15. Public bidding laws and rules not applicable.

The provisions of the various laws of the state of Utah and the rules or ordinances of the county or municipality which would otherwise require public bidding in respect to the acquisition, financing, management, funding, construction, reconstruction, improvement, maintenance, equipping, and furnishing of a project shall have no application to same.

Amended by Chapter 206, 1986 General Session

11-17-16. Publication of resolutions and notice of bonds to be issued.

(1) (a) The governing body may provide for the publication of any resolution or other proceeding adopted by it under this chapter, including all resolutions providing for the sale or lease of any land by the municipality, county, or state university in connection with the establishment, acquisition, development, maintenance, and operation of an industrial park.

(b) (i) The publication shall be:

(A) in a newspaper qualified to carry legal notices having general circulation in the municipality or county; or

(B) in the case of a state university, in a newspaper of general circulation in the county within which the principal administrative office of the state university is located; and

(ii) as required in Section 45-1-101.

(2) In case of a resolution or other proceeding providing for the issuance of bonds, the governing body may, in lieu of publishing the entire resolution or other proceeding, publish a notice of bonds to be issued, titled as such, containing:

(a) the name of the issuer;

(b) the purpose of the issue;

(c) the name of the users, if known;

(d) the maximum principal amount which may be issued;

(e) the maximum number of years over which the bonds may mature; and

(f) the times and place where a copy of the resolution or other proceeding may be examined, which shall be at an office of the issuer, identified in the notice, during regular business hours of the issuer as described in the notice and for a period of at least 30 days after the publication of the notice.

(3) For a period of 30 days after publication any person in interest may contest the legality of the resolution, proceeding, any bonds which may be authorized under them, or any provisions made for the security and payment of the bonds. After expiration of the 30-day period no person may contest the regularity, formality, or legality of the resolution, proceedings, bonds, or security provisions for any cause.

Amended by Chapter 145, 2011 General Session

11-17-16.1. Agreements authorized by resolution.

(1) The governing body of any municipality, county, special service district, or state university entering into an agreement pursuant to Section 11-17-3 may provide for the publication of any resolution adopted by it authorizing the execution of the

agreement, in a newspaper qualified to carry notices having general circulation therein.

(2) Any agreement authorized to be executed by the resolution may be attached as an exhibit to the resolution and need not be published as part of the resolution if the resolution provides that a copy of the agreement may be examined at an office of the municipality, county, special service district, or state university during regular business hours as described in the resolution and for a period of at least 30 days after the publication of the resolution.

(3) For a period of 30 days after publication of the resolution, any person in interest may contest the legality of the resolution, any agreement authorized thereby, or any provisions made for the security and payment of the obligations of the municipality, county, special service district, or state university under the agreement. After the expiration of the 30-day period no person has any cause of action to contest the regularity, formality, or legality of the resolution or any agreement authorized thereby for any cause.

Amended by Chapter 92, 1987 General Session

11-17-17. State universities granted same powers as municipalities and counties -- Authority to issue bonds.

(1) The State Board of Regents may, on behalf of the University of Utah and Utah State University exercise all powers granted to municipalities and counties pursuant to this chapter, except as provided in Subsection (2).

(2) The board may not issue bonds in excess of $10,000,000 in any one fiscal year under this chapter on behalf of either institution as the borrower without prior approval from the Legislature.

(3) Refunding bonds are exempt from the requirements of Subsection (2) if:

(a) the bonds are issued to reduce debt service costs; and

(b) the refunding bonds mature during the same time frame as the original obligation.

Amended by Chapter 4, 1993 General Session
Amended by Chapter 67, 1993 General Session

11-17-18. Powers of Governor's Office of Economic Development.

For purposes of this chapter and for the purposes of the Utah Interlocal Cooperation Act, the Governor's Office of Economic Development has all the powers set out in this chapter of, and is subject to the same limitations as, a municipality as though the office were defined as a municipality for purposes of this chapter, but it shall have such powers with respect to economic development or new venture investment fund projects only. It is not authorized to exercise such powers in any manner which will create general obligations of the state or any agency, department, division, or political subdivision thereof.

Amended by Chapter 148, 2005 General Session

11-17-20. Power of the Utah Charter School Finance Authority.

(1) The Utah Charter School Finance Authority may exercise the powers granted to municipalities and counties by this chapter, subject to the same limitations as that imposed on a municipality or county under the chapter, except as provided by Title 53A, Chapter 20b, Part 1, Utah Charter School Finance Authority Act.

(2) As used in this chapter, "governing body" when applied to the Utah Charter School Finance Authority means the authority's governing board as described in Section 53A-20b-103.

(3) Notwithstanding Section 11-17-15, a charter school that receives financing under this chapter is subject to Title 63G, Chapter 6a, Utah Procurement Code.

Amended by Chapter 201, 2012 General Session
Amended by Chapter 347, 2012 General Session

11-21-1. Cities and counties to require licensing of cycles by dealers -- "Cycle" defined.

(1) All county, city and town governments shall by ordinance or otherwise require all cycle dealers operating within their jurisdiction:

(a) to license, or arrange to have licensed at the time of purchase all cycles sold by them;

(b) to keep records on all cycles sold and to furnish, within 30 days of sale, their respective city or county police departments with the following information:

(i) name and address of the retailer;

(ii) year and make of the cycle;

(iii) general description of the cycle;

(iv) frame number; and

(v) name and address of the purchaser;

(c) to not sell any cycle which does not have a serial number on its frame. Where the cycle has no serial or frame numbers the dealer shall be required to stamp or have stamped on the frame the number of the license to be issued for that cycle, the year in which the license was issued or year of expiration of license and the abbreviation for the city or county regulating the dealer.

(2) As used in this section, "cycle" means a device upon which any person may ride, propelled by human power through a belt, chain or gears and having one or more wheels in tandem or other arrangement. Cycles with wheels of at least 20 inches in diameter and frame size of at least 14 inches shall be subject to this section. Others may be licensed by owner upon request.

Amended by Chapter 10, 1997 General Session

11-25-1. Short title.

This act shall be known and may be cited as the "Utah Residential Rehabilitation Act."

Enacted by Chapter 276, 1977 General Session

11-25-2. Legislative findings -- Liberal construction.

The legislature finds and declares that it is necessary for the welfare of the state and its inhabitants that community development and renewal agencies be authorized within cities, towns or counties, or cities or towns and counties to make long-term, low-interest loans to finance residential rehabilitation in selected residential areas in order to encourage the upgrading of property in those areas. Unless such agencies provide some form of assistance to finance residential rehabilitation, many residential areas will deteriorate at an accelerated pace. This act shall be liberally construed to effect its purposes.

Amended by Chapter 359, 2006 General Session

11-25-3. Definitions.

As used in this chapter:

(1) "Bonds" mean any bonds, notes, interim certificates, debentures, or other obligations issued by an agency pursuant to this part and which are payable exclusively from the revenues, as defined in Subsection (9), and from any other funds specified in this part upon which the bonds may be made a charge and from which they are payable.

(2) (a) "Citizen participation" means action by the agency to provide persons who will be affected by residential rehabilitation financed under the provisions of this part with opportunities to be involved in planning and carrying out the residential rehabilitation program. "Citizen participation" shall include, but not be limited to, all of the following:

(i) Holding a public meeting prior to considering selection of the area for designation.

(ii) Consultation with representatives of owners of property in, and residents of, a residential rehabilitation area, in developing plans for public improvements and implementation of the residential rehabilitation program.

(iii) Dissemination of information relating to the time and location of meetings, boundaries of the proposed residential rehabilitation area, and a general description of the proposed residential rehabilitation program.

(b) (i) Public meetings and consultations described in Subsection (2)(a) shall be conducted by an official designated by the agency.

(ii) Public meetings shall be held at times and places convenient to residents and property owners.

(3) "Financing" means the lending of money or any other thing of value for the purpose of residential rehabilitation.

(4) "Agency" means a community development and renewal agency functioning pursuant to Title 17C, Limited Purpose Local Government Entities - Community Development and Renewal Agencies Act.

(5) "Participating party" means any person, company, corporation, partnership, firm, agency, political subdivision of the state, or other entity or group of entities requiring financing for residential rehabilitation pursuant to the provisions of this part. No elective officer of the state or any of its political subdivisions shall be eligible to be a participating party under the provision of this part.

(6) "Residential rehabilitation" means the construction, reconstruction,

renovation, replacement, extension, repair, betterment, equipping, developing, embellishing, or otherwise improving residences consistent with standards of strength, effectiveness, fire resistance, durability, and safety, so that the structures are satisfactory and safe to occupy for residential purposes and are not conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime because of any one or more of the following factors:

(a) defective design and character of physical construction;

(b) faulty interior arrangement and exterior spacing;

(c) high density of population and overcrowding;

(d) inadequate provision for ventilation, light, sanitation, open spaces, and recreation facilities;

(e) age, obsolescence, deterioration, dilapidation, mixed character, or shifting of uses; and

(f) economic dislocation, deterioration, or disuse, resulting from faulty planning.

(7) "Residence" means a residential structure in residential rehabilitation areas. It also means a commercial structure which, in the judgment of the agency, is an integral part of a residential neighborhood.

(8) "Rehabilitation standards" mean the applicable local or state standards for the rehabilitation of buildings located in residential rehabilitation areas, including any higher standards adopted by the agency as part of its residential rehabilitation financing program.

(9) "Revenues" mean all amounts received as repayment of principal, interest, and all other charges received for, and all other income and receipts derived by, the agency from the financing of residential rehabilitation, including money deposited in a sinking, redemption, or reserve fund or other fund to secure the bonds or to provide for the payment of the principal of, or interest on, the bonds and such other money as the legislative body may, in its discretion, make available therefor.

(10) "Residential rehabilitation area" means the geographical area designated by the agency as one for inclusion in a comprehensive residential rehabilitation financing program pursuant to the provisions of this chapter.

Amended by Chapter 279, 2010 General Session

11-25-4. Location and character of rehabilitation -- Financial assistance.

An agency may determine the location and character of any residential rehabilitation to be financed under the provisions of this part and may lend financial assistance to any participating part for the purpose of financing residential rehabilitation in areas designated as residential rehabilitation areas by the agency.

Enacted by Chapter 276, 1977 General Session

11-25-5. Bonds or notes -- Issuance -- Purposes -- Payment -- Maturity of bond anticipation notes.

An agency may, from time to time, issue its negotiable bonds or notes for the purpose of financing residential rehabilitation as authorized by this act and for the purpose of funding or refunding these bonds or notes in the same manner as it may

issue other bonds or notes as provided in Title 17C, Chapter 1, Part 5, Agency Bonds. Every issue of its bonds shall be a special obligation of the agency payable from all or any part of the revenues specified in the act or funds legally received by the agency. In anticipation of the sale of the bonds, the agency may issue negotiable bond anticipation notes in accordance with Section 11-14-311, and may renew such notes from time to time. Bond anticipation notes may be paid from the proceeds of sale of the bonds of the agency in anticipation of which they were issued. Bond anticipation notes and agreements relating thereto and the resolution or resolutions authorizing the notes and agreements may obtain any provisions, conditions, or limitations which a bond, agreement relating thereto, or bond resolution of the agency may contain except that any note or renewal thereof shall mature at a time not later than five years from the date of the issuance of the original note.

Amended by Chapter 359, 2006 General Session

11-25-6. Fees, charges and interest rates -- Contract for collections -- Security -- Payment -- Assignments.

The agency may fix fees, charges, and interest rates for financing residential rehabilitation and may from time to time revise these fees, charges, and interest rates to reflect changes in interest rates on the agency's bonds, losses due to defaults, changes in loan servicing charges, or other expenses related to administration of the residential rehabilitation financing program. The agency may collect interest and principal together with the fees and charges incurred in financing and may contract to pay any person, partnership, association, corporation, or public agency with respect thereto. The agency may hold deeds of trust as security for financing residential rehabilitation and may pledge the same as security for repayment of bonds issued pursuant to this part. The agency may establish the terms and conditions for the financing of residential rehabilitation undertaken pursuant to this act.

The full amount owed on any loan for residential rehabilitation made pursuant to this part shall be due and payable upon sale or other transfer of ownership of the property subject to such rehabilitation, except that assignment of the loan to the buyer or transferee may be permitted in case of hardship, which shall be defined, and procedures established for the determination of their existence in guidelines established by the agency.

Enacted by Chapter 276, 1977 General Session

11-25-7. Expenditures for services and advisers.

The agency may employ engineering, architectural, accounting, collection, or other services, including services in connection with the servicing of loans made to participating parties, as may be necessary in the judgment of the agency for the successful financing of such residential rehabilitation. The agency may pay the reasonable costs of consulting engineers, architects, accountants, and construction experts, if, in the judgment of the agency, such services are necessary to the successful financing of any residential rehabilitation and if the agency is not able to provide such services. The agency may employ and fix the compensation of financing

consultants, bond counsel, and other advisers as may be necessary in its judgment to provide for the issuance and sale of any bonds or bond anticipation notes of the agency.

Enacted by Chapter 276, 1977 General Session

11-25-8. General powers of agency.

In addition to all other powers specifically granted by this part, the agency may do all things necessary or convenient to carry out the purposes of this act.

Enacted by Chapter 276, 1977 General Session

11-25-9. Bonds payable solely from revenues -- Cities, towns, and counties not obligated.

Revenues shall be the sole source of funds pledged by the agency for repayment of its bonds. Bonds issued under the provisions of this part may not be deemed to constitute a debt or liability of the agency or a pledge of the faith and credit of the agency but shall be payable solely from revenues. The issuance of bonds may not directly, indirectly, or contingently obligate a city, town or county, or a city or town and county which has designated its governing body as an agency to levy or pledge any form of taxation or to make any appropriation for payment of bonds issued by an agency.

Amended by Chapter 378, 2010 General Session

11-25-10. Rules and regulations -- Acquisition and disposal of interests in property.

All residential rehabilitation shall be constructed or completed subject to the rules and regulations of the agency. An agency may acquire by deed, purchase, lease, contract, gift, devise, or otherwise any real or personal property, structures, rights, rights-of-way, franchises, easements, and other interests in lands necessary or convenient for the financing of residential rehabilitation, upon such terms and conditions as it deems advisable, and may lease, sell, or dispose of the same in such manner as may be necessary or desirable to carry out the objectives and purposes of this act.

Enacted by Chapter 276, 1977 General Session

11-25-11. Comprehensive financing program ordinance -- Contents.

Prior to the issuance of any bonds or bond anticipation notes of the agency for residential rehabilitation, the agency shall by ordinance adopt a comprehensive residential rehabilitation financing program, including:

(1) Criteria for selection of residential rehabilitation areas by the agency including findings by the agency that:

(a) There are a substantial number of deteriorating structures in the area which do not conform to community standards for decent, safe, sanitary housing.

(b) Financial assistance from the agency for residential rehabilitation is

necessary to arrest the deterioration of the area.

(c) Financing of residential rehabilitation in the area is economically feasible. These findings are not required, however, when the residential rehabilitation area is located within the boundaries of a project area covered by an urban renewal project area plan adopted in accordance with Section 17C-2-107.

(2) Procedures for selection of residential rehabilitation areas by the agency including:

(a) Provisions for citizen participation in selection of residential rehabilitation areas.

(b) Provisions for a public hearing by the agency prior to selection of any particular residential rehabilitation area.

(3) A commitment that rehabilitation standards will be enforced on each residence for which financing is provided.

(4) Guidelines for financing residential rehabilitation which shall be subject to the following limitations:

(a) Outstanding loans on the property to be rehabilitated including the amount of the loans for rehabilitation, may not exceed 80% of the anticipated after-rehabilitation value of the property to be rehabilitated, except that the agency may authorize loans of up to 95% of the anticipated after-rehabilitation value of the property if loans are made for the purpose of rehabilitating the property for residential purposes, there is demonstrated need for such higher limit, and there is a high probability that the value of the property will not be impaired during the term of the loan.

(b) The maximum repayment period for residential rehabilitation loans shall be 20 years or 3/4 of the economic life of the property, whichever is less.

(c) The maximum amount loan for rehabilitation for each dwelling unit and for each commercial unit which is, or is part of a "residence" as defined in this chapter, shall be established by resolution of the agency.

Amended by Chapter 378, 2010 General Session

11-25-12. Equal opportunity requirements.

The agency shall require that any residence which is rehabilitated with financing obtained under this part shall, until that financing is repaid, be open, upon sale or rental of any portion thereof, to all regardless of race, creed, color, sex, marital status, or national origin. The agency shall also require that contractors and subcontractors engaged in residential rehabilitation financed under this part shall provide equal opportunity for employment, without discrimination as to race, color, creed, sex, marital status, or national origin. All contracts and subcontracts for residential rehabilitation financed under this part shall be let without discrimination as to race, color, creed, sex, marital status, or national origin.

Enacted by Chapter 276, 1977 General Session

11-25-13. Challenge of program, plan, or area -- Limitation.

Any action challenging the legality of a comprehensive residential rehabilitation financing program, the selection of a residential rehabilitation area, or the adoption of a

plan for public improvements for a residential rehabilitation area shall be commenced within 30 days of the publication of the resolution, ordinance, or other proceedings adopting the program or plan, or selecting the area. After this time no one shall have any cause of action to contest the regularity, formality or legality thereof for any cause whatsoever.

Enacted by Chapter 276, 1977 General Session

11-25-14. Trust to secure bonds -- Contents of agreement or bond resolution -- Indemnity bonds or securities -- Expenses of trust.

In the discretion of the agency, any bonds issued under the provisions of this part may be secured by a trust agreement by and between the agency and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without this state. The trust agreement or the resolution providing for the issuance of bonds may pledge or assign the revenues to be received or proceeds of any contract or contracts pledged, and may convey or mortgage any residence the rehabilitation of which is to be financed out of the proceeds of the bonds. Such trust agreement or resolution providing for the issuance of bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including such provisions as may be included in any resolution or resolutions of the agency authorizing the issuance of bonds. Any bank or trust company doing business under the laws of this state which may act as depositary of the proceeds of bonds or of revenues or other money may furnish such indemnity bonds or pledge such securities as may be required by the agency. Any trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees, and may restrict the individual rights of action by bondholders. In addition to the foregoing, any trust agreement or resolution may contain such other provisions as the agency may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of the trust agreement or resolution may be created as a part of the cost of residential rehabilitation.

Enacted by Chapter 276, 1977 General Session

11-25-15. Proceedings for enforcement of rights of bondholders and trustees.

Any holder of bonds issued under the provisions of this part or any of the coupons appertaining thereto, and the trustee or trustees appointed pursuant to any resolution authorizing the issuance of the bonds, except to the extent the rights thereof may be restricted by the resolution authorizing the issuance of the bonds, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect or enforce any and all rights specified in the laws of the state or in the resolution, and may enforce and compel the performance of all duties required by this part or by such resolution to be performed by the agency or by any officer, employee, or agent thereof, including the fixing, charging, and collecting of rates, fees, interest and charges authorized and required by the provisions of the resolution to be fixed, established, and collected.

Enacted by Chapter 276, 1977 General Session

11-25-16. Refunding bonds -- Issuance -- Proceeds -- Investments.

(1) The agency may provide for the issuance of the bonds of the agency to:

(a) refund any outstanding bonds of the agency;

(b) pay any redemption premiums and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase, or maturity of those bonds; and

(c) pay all or any part of the cost of additional residential rehabilitation.

(2) The agency may:

(a) apply the proceeds of bonds issued for the purpose of refunding any outstanding bonds to the purchase or retirement at maturity or redemption of any outstanding bonds, either at their earliest or any subsequent redemption date or upon the purchase or retirement at their maturity; and

(b) pending that application, place them in escrow, to be applied to the purchase or retirement at maturity or redemption on the date determined by the agency.

(3) (a) Pending use for purchase, retirement at maturity, or redemption of outstanding bonds, any proceeds held in escrow under Subsection (2) shall be invested by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act.

(b) The agency shall apply any interest or other increment earned or realized on an investment to the payment of the outstanding bonds to be refunded.

(c) After the terms of the escrow have been fully satisfied and carried out, any balance of proceeds and any interest or increment earned or realized from the investment of them may be returned to the agency to be used by it for any lawful purpose.

(4) The agency shall invest that portion of the proceeds of any bonds designated for the purpose of paying all or any part of the cost of additional residential rehabilitation under Subsection (1) by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act.

(5) All bonds issued under this section are subject to the provisions of this part in the same manner and to the same extent as other bonds issued under this chapter.

Amended by Chapter 285, 1992 General Session

11-25-17. Residential rehabilitation bonds as investments or deposits.

Notwithstanding any other provisions of law, bonds issued pursuant to this part shall be legal investments for all trust funds, the funds of insurance companies, savings and loan associations, investment companies and banks, both savings and commercial, and shall be legal investments for executors, administrators, trustees, and all other fiduciaries. The bonds shall be legal investments for state school funds and for any fund which may be invested in county, municipal, or school district bonds, and the bonds shall be deemed to be securities which may properly and legally be deposited with, and received by, any state or municipal officer or by any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now, or may hereafter be, authorized by law, including deposits to secure

public funds.

Enacted by Chapter 276, 1977 General Session

11-25-18. Financing provided to participating parties -- Agreements -- Contents.

The agency may provide financing to any participating party for the purpose of residential rehabilitation authorized pursuant to a comprehensive residential rehabilitation financing program. All agreements for this financing shall provide that the design of the residential rehabilitation shall be subject to such standards as may be established by the agency and that the work of such residential rehabilitation shall be subject to such supervision as the agency deems necessary.

Enacted by Chapter 276, 1977 General Session

11-25-19. Loan agreements with participating parties -- Contents -- Rates, fees, and charges -- Purposes.

The agency may enter into loan agreements with any participating party relating to residential rehabilitation of any kind or character. The terms and conditions of the loan agreements may be as mutually agreed upon. Any loan agreement may provide the means or methods by which any mortgage taken by the agency shall be discharged, and it shall contain such other terms and conditions as the agency may require. The agency is authorized to fix, revise, charge, and collect interest and principal and all other rates, fees, and charges with respect to financing of residential rehabilitation. These rates, fees, charges, and interest shall be fixed and adjusted so that the aggregate of the rates, fees, charges, and interest will provide funds sufficient with other revenues and money which it is anticipated will be available therefor, if any, to do all of the following:

(1) Pay the principal of and interest on outstanding bonds of the agency issued to finance such residential rehabilitation as the same shall become due and payable.

(2) Create and maintain reserves required or provided for in any resolution authorizing such bonds. A sufficient amount of the revenues derived from residential rehabilitation may be set aside at such regular intervals as may be provided by the resolution in a sinking or other similar fund, which is hereby pledged to, and charged with, the payment of the principal of and interest on the bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. The pledge shall be valid and binding from the time the pledge is made. The rates, fees, interest, and other charges, revenues, or money so pledged and thereafter received by the local agency shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the agency, irrespective of whether the parties have notice thereof. Neither the resolution nor any loan agreement by which a pledge is created need be filed or recorded except in the records of the agency. The use and disposition of money to the credit of the sinking or other similar fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds. Except as may

otherwise be provided in the resolution, the sinking or other similar fund may be a fund for all bonds of the agency issued to finance the rehabilitation of the residence of a particular participating party without distinction or priority. The agency, however, in any resolution may provide that the sinking or other similar fund shall be the fund for a particular residential rehabilitation project or projects and for the bonds issued to finance such residential rehabilitation project or projects and may, additionally, authorize and provide for the issuance of bonds having a lien with respect to the security authorized by this section which is subordinate to the lien of other bonds of the agency, and, in this case, the agency may create separate sinking or other similar funds securing the bonds having the subordinate lien.

(3) Pay operating and administrative costs of the agency incurred in the administration of the program authorized by this part.

Enacted by Chapter 276, 1977 General Session

11-25-20. Money received as trust funds -- Depository as trustee.

All money received pursuant to the provisions of this part, whether proceeds from the sale of bonds or revenues, shall be deemed to be trust funds to be held and applied solely as provided in this part. Any bank or trust company in which the money is deposited shall act as trustee of the money and shall hold and apply the same for the purposes specified in this part, subject to the terms of the resolution authorizing the bonds.

Amended by Chapter 342, 2011 General Session

11-25-21. Act deemed supplemental to other laws -- Compliance in issuing bonds sufficient.

This act shall be deemed to provide a complete, additional, and alternative method for doing the things authorized thereby, and shall be regarded as supplemental and additional to the powers conferred upon an agency by other laws. The issuance of bonds and refunding bonds under the provisions of this part need not comply with the requirements of any other law applicable to the issuance of bonds.

Enacted by Chapter 276, 1977 General Session

11-26-1. Definitions -- Ceiling on local charges based on gross revenues of public service provider.

(1) As used in this chapter:

(a) "Local charge" means one or more of the following charges paid by a public service provider to a county or municipality:

(i) a tax;

(ii) a license;

(iii) a fee;

(iv) a license fee;

(v) a license tax; or

(vi) a charge similar to Subsections (1)(a)(i) through (v).

(b) "Municipality" means:

(i) a city; or

(ii) a town.

(c) "Public service provider" means a person engaged in the business of supplying taxable energy as defined in Section 10-1-303.

(2) A county or a municipality may not impose upon, charge, or collect from a public service provider local charges:

(a) imposed on the basis of the gross revenues of the public service provider;

(b) derived from sales, use, or both sales and use of the service within the county or municipality; and

(c) in a total amount that is greater than 6% of gross revenues.

(3) The determination of gross revenues under this section may not include:

(a) the sale of gas or electricity as special fuel for motor vehicles; or

(b) a local charge.

(4) This section may not be construed to:

(a) affect or limit the power of counties or municipalities to impose sales and use taxes under:

(i) Title 59, Chapter 12, Sales and Use Tax Act; or

(ii) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act; or

(b) grant any county or municipality the power to impose a local charge not otherwise provided for by law.

(5) This section takes precedence over any conflicting provision of law.

Amended by Chapter 253, 2003 General Session

11-26-2. Exemption of municipality from taxation limitation.

A municipality is exempt from this limit by a majority vote of its voters voting in a municipal election.

Enacted by Chapter 214, 1981 General Session

11-27-1. Short title -- Recital of authority required on face of bonds.

This chapter shall be known and may be cited as the "Utah Refunding Bond Act." All bonds issued under the authority provided for in this chapter shall contain on their face a recital to that effect.

Enacted by Chapter 43, 1981 General Session

11-27-2. Definitions.

As used in this chapter:

(1) "Advance refunding bonds" means refunding bonds issued for the purpose of refunding outstanding bonds in advance of their maturity.

(2) "Assessments" means a special tax levied against property within a special improvement district to pay all or a portion of the costs of making improvements in the district.

(3) "Bond" means any revenue bond, general obligation bond, tax increment

bond, special improvement bond, local building authority bond, or refunding bond.

(4) "General obligation bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of a public body payable in whole or in part from revenues derived from ad valorem taxes and that constitutes an indebtedness within the meaning of any applicable constitutional or statutory debt limitation.

(5) "Governing body" means the council, commission, county legislative body, board of directors, board of trustees, board of education, board of regents, or other legislative body of a public body designated in this chapter that is vested with the legislative powers of the public body, and, with respect to the state, the State Bonding Commission created by Section 63B-1-201.

(6) "Government obligations" means:

(a) direct obligations of the United States of America, or other securities, the principal of and interest on which are unconditionally guaranteed by the United States of America; or

(b) obligations of any state, territory, or possession of the United States, or of any of the political subdivisions of any state, territory, or possession of the United States, or of the District of Columbia described in Section 103(a), Internal Revenue Code of 1986.

(7) "Issuer" means the public body issuing any bond or bonds.

(8) "Public body" means the state or any agency, authority, instrumentality, or institution of the state, or any municipal or quasi-municipal corporation, political subdivision, agency, school district, local district, special service district, or other governmental entity now or hereafter existing under the laws of the state.

(9) "Refunding bonds" means bonds issued under the authority of this chapter for the purpose of refunding outstanding bonds.

(10) "Resolution" means a resolution of the governing body of a public body taking formal action under this chapter.

(11) "Revenue bond" means any bond, note, warrant, certificate of indebtedness, or other obligation for the payment of money issued by a public body or any predecessor of any public body and that is payable from designated revenues not derived from ad valorem taxes or from a special fund composed of revenues not derived from ad valorem taxes, but excluding all of the following:

(a) any obligation constituting an indebtedness within the meaning of any applicable constitutional or statutory debt limitation;

(b) any obligation issued in anticipation of the collection of taxes, where the entire issue matures not later than one year from the date of the issue; and

(c) any special improvement bond.

(12) "Special improvement bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of a public body or any predecessor of any public body that is payable from assessments levied on benefitted property and from any special improvement guaranty fund.

(13) "Special improvement guaranty fund" means any special improvement guaranty fund established under Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities; Title 11, Chapter 42, Assessment Area Act; or any predecessor or similar statute.

(14) "Tax increment bond" means any bond, note, warrant, certificate of

indebtedness, or other obligation of a public body issued under authority of Title 17C, Limited Purpose Local Government Entities - Community Development and Renewal Agencies Act.

Amended by Chapter 279, 2010 General Session

11-27-3. Action by resolution of governing body -- Purposes for bond issue -- Exchange or sale -- Interest rate limitations inapplicable -- Principal amount -- Investment of proceeds -- Safekeeping and application of proceeds -- Computing indebtedness -- Payment of bonds -- Combination issues -- Laws applicable to issuance -- Payment from taxes or pledged revenues.

(1) Any formal action taken by the governing body of a public body under the authority of this chapter may be taken by resolution of that governing body.

(2) (a) The governing body of any public body may by resolution provide for the issuance of refunding bonds to refund outstanding bonds issued by the public body or its predecessor, either prior to or after the effective date of this chapter, only:

(i) to pay or discharge all or any part of any outstanding series or issue of bonds, including applicable interest, in arrears or about to become due and for which sufficient funds are not available;

(ii) to achieve a savings; or

(iii) to achieve another objective that the governing body finds to be beneficial to the public body.

(b) Any refunding bonds may be delivered in exchange for the outstanding bonds being refunded or may be sold in a manner, at terms, with details, and at a price above, at, or below par as the governing body determines advisable. The refunding bonds may be issued without an election, unless an election is required by the Utah Constitution.

(c) The governing body may, by resolution, delegate to one or more officers of the local political subdivision the authority to:

(i) in accordance with and within the parameters set forth in the resolution, approve the final interest rate or rates, price, principal amount, maturity or maturities, redemption features, and other terms of the bond; and

(ii) approve and execute all documents relating to the issuance of a bond.

(d) It is the express intention of the Legislature that interest rate limitations elsewhere appearing in the laws of the state not apply to nor limit the rates of interest borne by refunding bonds.

(3) Advance refunding bonds may be issued in a principal amount in excess of the principal amount of the bonds to be refunded as determined by the governing body. This amount may be equal to the full amount required to pay the principal of, interest on, and redemption premiums, if any, due in connection with the bonds to be refunded to and including their dates of maturity or redemption in accordance with the advance refunding plan adopted by the governing body, together with all costs incurred in accomplishing this refunding. The principal amount of refunding bonds may be less than or the same as the principal amount of the bonds being refunded so long as provision is duly and sufficiently made for the retirement or redemption of the bonds to be refunded. Any reserves held or taxes levied or collected to secure the bonds to be

refunded may be applied to the redemption or retirement of the bonds, or otherwise, as the governing body may determine.

(4) Prior to the application of the proceeds derived from the sale of advance refunding bonds to the purposes for which the bonds have been issued, these proceeds, together with any other legally available funds, including reserve funds, may be invested and reinvested only in government obligations maturing at such times as may be required to provide funds sufficient to pay principal of, interest on, and redemption premiums, if any, due in connection with the bonds to be refunded or the advance refunding bonds, or both, in accordance with the advance refunding plan. To the extent incidental expenses have been capitalized, these bond proceeds may be used to defray these expenses.

(5) The governing body may contract regarding the safekeeping and application of the proceeds of sale of advance refunding bonds and other funds included with them and the income from them, including the right to appoint a trustee, which may be any trust company or state or national bank having powers of a trust company inside or outside the state. The governing body may provide in the advance refunding plan that until such money is required to redeem or retire the bonds to be refunded, the advance refunding bond proceeds and other funds, and the income from them, shall be used to pay and secure payment of principal of, interest on, and redemption premiums, if any, due in connection with all or a portion of the advance refunding bonds or the bonds being refunded, or both.

(6) In computing indebtedness for the purpose of any applicable constitutional or statutory debt limitation, there shall be deducted from the amount of outstanding indebtedness the principal amount of outstanding general obligation bonds for the payment of which there has been dedicated and deposited in escrow government obligations, the principal of or interest on which, or both, will be sufficient to provide for the payment of these general obligation bonds as to principal, interest, and redemption premiums, if any, when due at maturity or upon some earlier date upon which the bonds have been called for redemption in accordance with their terms.

(7) When a public body has irrevocably set aside for and pledged to the payment of bonds to be refunded proceeds of advance refunding bonds and other money in amounts which, together with known earned income from their investment, will be sufficient in amount to pay the principal of, interest on, and any redemption premiums due on the bonds to be refunded as the same become due and to accomplish the refunding as scheduled, the refunded bonds shall be considered duly paid and discharged for the purpose of any applicable constitutional or statutory debt limitation.

(8) Refunding bonds and bonds issued for any other purpose may be issued separately or issued in combination in one or more series or issues by the same issuer.

(9) Except as specifically provided in this section, refunding bonds issued under this chapter shall be issued in accordance with the provisions of law applicable to the type of bonds of the issuer being refunded in effect either at the time of the issuance of the refunding bonds or at the time of issuance of the bonds to be refunded. Refunding bonds and coupons, if any, pertaining to them may bear facsimile signatures as provided in Section 11-14-304.

(10) Refunding bonds may be made payable from any taxes or pledged

revenues, or both, or any assessments, special improvement guaranty funds, or other funds which might be legally pledged for the payment of the bonds to be refunded at the time of the issuance of the refunding bonds or at the time of the issuance of the bonds to be refunded, as the governing body may determine.

Amended by Chapter 145, 2011 General Session
Amended by Chapter 342, 2011 General Session

11-27-3.5. Tax levy to pay state refunding bonds -- Sinking fund -- Payments -- Abatement of tax -- Investment of fund -- Interest rates on bonds -- Security for bonds.

(1) (a) Each year after issuance of refunding bonds by the State Bonding Commission until all outstanding refunding bonds are retired, there is levied a direct annual tax on all real and personal property within the state subject to state taxation, sufficient to pay: (i) applicable refunding bond redemption premiums, if any; (ii) interest on the refunding bonds as it becomes due; and (iii) principal on the refunding bonds as it becomes due.

(b) The rate of the direct annual tax shall be fixed each year by the State Tax Commission at the rate fixed for state taxes and the tax shall be collected and the proceeds applied as provided in this chapter.

(c) The proceeds of the taxes levied under this section may be appropriated to the applicable sinking fund.

(2) A sinking fund may be created by resolution of the State Bonding Commission for administration by the state treasurer. The resolution may provide that all money deposited in the sinking fund, from whatever source, shall be used to pay debt service on the refunding bonds.

(3) The Division of Finance, on or before any interest, principal, or redemption premiums become due on the refunding bonds, shall draw warrants on the state treasury which the treasurer shall promptly pay from funds within the applicable sinking fund. The amount paid shall be transmitted immediately to the paying or transfer agent for the refunding bonds.

(4) The direct annual tax imposed under this section is abated to the extent money is available from sources, other than ad valorem taxes in the applicable sinking fund, for the payment of refunding bond interest, principal, and redemption premiums.

(5) The state treasurer may invest any money in sinking funds in accordance with Title 51, Chapter 7, State Money Management Act of 1974, until the time it is needed for the purposes for which each fund is created. All income from the investment of sinking fund money shall be deposited to that sinking fund and used for the payment of debt service on the refunding bonds.

(6) The proceedings of the State Bonding Commission may specify the rates of interest on the refunding bonds or the method, formula, or indexes by which a variable interest rate on the bonds may be determined while the bonds are outstanding.

(7) In connection with any refunding bond issued by the State Bonding Commission the state treasurer may enter into arrangements on behalf of the state with financial, and other institutions for letters of credit, standby letters of credit, reimbursement agreements, and remarketing, indexing, and tender agent agreements

to secure the refunding bonds and for the payment of fees, charges, and other amounts coming due under those agreements for the purpose of enhancing the credit worthiness of the refunding bonds.

Enacted by Chapter 6, 1984 General Session

11-27-4. Publication of resolution -- Notice of bond issue -- Contest of resolution or proceeding.

(1) The governing body of any public body may provide for the publication of any resolution or other proceeding adopted by it under this chapter:

(a) in a newspaper having general circulation in the public body; and

(b) as required in Section 45-1-101.

(2) In case of a resolution or other proceeding providing for the issuance of refunding bonds (or for a combined issue of refunding bonds and bonds issued for any other purpose), the governing body may, instead of publishing the entire resolution or other proceeding, publish a notice of bonds to be issued, entitled accordingly, and containing:

(a) the name of the issuer;

(b) the purposes of the issue;

(c) the maximum principal amount which may be issued;

(d) the maximum number of years over which the bonds may mature;

(e) the maximum interest rate which the bonds may bear;

(f) the maximum discount from par, expressed as a percentage of principal amount, at which the bonds may be sold;

(g) a general description of the security pledged for repayment of the bonds; and

(h) the times and place where a copy of the resolution or other proceeding authorizing the issuance of the bonds may be examined, which shall be at an office of the governing body identified in the notice, during regular business hours of the governing body as described in the notice and for a period of at least 30 days after the publication of the notice.

(3) For a period of 30 days after the publication, any person in interest shall have the right to contest the legality of the resolution or proceeding or any bonds which may be so authorized or any provisions made for the security and payment of these bonds; and after this time no person shall have any cause of action to contest the regularity, formality, or legality thereof for any cause.

Amended by Chapter 145, 2011 General Session

11-27-5. Negotiability of bonds -- Intent and construction of chapter -- Budget for payment of bonds -- Proceedings limited to those required by chapter -- No election required -- Application of chapter.

(1) Refunding bonds shall have all the qualities of negotiable paper, shall be incontestable in the hands of bona fide purchasers or holders for value, and are not invalid for any irregularity or defect in the proceedings for their issuance and sale. This chapter is intended to afford an alternative method for the issuance of refunding bonds

by public bodies and may not be construed to deprive any public body of the right to issue bonds for refunding purposes under authority of any other statute, but this chapter, nevertheless, shall constitute full authority for the issue and sale of refunding bonds by public bodies. Section 11-1-1, however, is not applicable to refunding bonds.

(2) Any public body subject to any budget law shall in its annual budget make proper provision for the payment of principal and interest currently falling due on refunding bonds, but no provision need be made in the budget prior to the issuance of the refunding bonds for their issuance or for the expenditure of the proceeds from them.

(3) (a) No ordinance, resolution, or proceeding concerning the issuance of refunding bonds nor the publication of any resolution, proceeding, or notice relating to the issuance of the refunding bonds shall be necessary except as specifically required by this chapter.

(b) A publication made under this chapter may be made:

(i) in any newspaper in which legal notices may be published under the laws of Utah, without regard to its designation as the official journal or newspaper of the public body; and

(ii) as required in Section 45-1-101.

(4) No resolution adopted or proceeding taken under this chapter shall be subject to any referendum petition or to an election other than as required by this chapter. All proceedings adopted under this chapter may be adopted on a single reading at any legally-convened meeting of the governing body. This chapter shall apply to all bonds issued and outstanding at the time this chapter takes effect as well as to bonds issued after this chapter takes effect.

Amended by Chapter 378, 2010 General Session

11-27-6. Bonds and interest exempt from taxation except corporate franchise tax.

All refunding bonds, and interest accruing on them, shall be exempt from all taxation in this state, except for the corporate franchise tax.

Amended by Chapter 61, 1984 General Session

11-27-7. Chapter inapplicable to anticipation bonds and obligations.

This chapter does not apply to bonds or obligations issued in anticipation of the collection of taxes where the entire issue matures not later than one year from the date of the issue.

Amended by Chapter 142, 1987 General Session

11-27-8. Chapter controlling in conflict of laws.

To the extent that provisions of this chapter shall be in conflict with any other law or laws, the provisions of this chapter shall be controlling.

Enacted by Chapter 43, 1981 General Session

11-27-9. Prerequisites to issuance of state general obligation refunding bonds.

No general obligation refunding bonds of the state may be issued under this chapter, unless (a) the tax provided in Section 11-27-3.5 is sufficient to pay annual interest and to pay the principal of the refunding bonds within 20 years from the final passage of the law authorizing the bonds to be refunded thereby, or (b) the legislature has approved the issuance of general obligation refunding bonds and provided for levying a tax annually, sufficient to pay the annual interest and to pay the principal of the general obligation refunding bonds within 20 years from the final passage of the law approving the refunding bonds as provided in Article XIII, Sec. 2(11), Utah Constitution.

Enacted by Chapter 6, 1984 General Session

11-27-10. Legal investment status of refunding bonds.

Refunding bonds issued under this chapter are legal investments for all state trust funds, insurance companies, banks, trust companies, and the state school fund, and may be used as collateral to secure legal obligations.

Enacted by Chapter 6, 1984 General Session

11-30-1. Short title.

This chapter is known as the "Utah Bond Validation Act."

Enacted by Chapter 197, 1987 General Session

11-30-2. Definitions.

As used in this chapter:

(1) "Attorney general" means the attorney general of the state or one of his assistants.

(2) "Bonds" means any evidence or contract of indebtedness that is issued or authorized by a public body, including, without limitation, bonds, refunding bonds, advance refunding bonds, bond anticipation notes, tax anticipation notes, notes, certificates of indebtedness, warrants, commercial paper, contracts, and leases, whether they are general obligations of the issuing public body or are payable solely from a specified source, including annual appropriations by the public body.

(3) "County attorney" means the county attorney of a county or one of his assistants.

(4) "Lease" means any lease agreement, lease purchase agreement, and installment purchase agreement, and any certificate of interest or participation in any of the foregoing. Reference in this chapter to issuance of bonds includes execution and delivery of leases.

(5) "Person" means any person, association, corporation, or other entity.

(6) "Public body" means the state or any agency, authority, instrumentality, or institution of the state, or any county, municipality, quasi-municipal corporation, school district, local district, special service district, political subdivision, or other governmental entity existing under the laws of the state, whether or not possessed of any taxing

power. With respect to leases, public body, as used in this chapter, refers to the public body which is the lessee, or is otherwise the obligor with respect to payment under any such leases.

(7) "Refunding bonds" means any bonds that are issued to refund outstanding bonds, including both refunding bonds and advance refunding bonds.

(8) "State" means the state of Utah.

(9) "Validity" means any matter relating to the legality and validity of the bonds and the security therefor, including, without limitation, the legality and validity of:

(a) a public body's authority to issue and deliver the bonds;

(b) any ordinance, resolution, or statute granting the public body authority to issue and deliver the bonds;

(c) all proceedings, elections, if any, and any other actions taken or to be taken in connection with the issuance, sale, or delivery of the bonds;

(d) the purpose, location, or manner of the expenditure of funds;

(e) the organization or boundaries of the public body;

(f) any assessments, taxes, rates, rentals, fees, charges, or tolls levied or that may be levied in connection with the bonds;

(g) any lien, proceeding, or other remedy for the collection of those assessments, taxes, rates, rentals, fees, charges, or tolls;

(h) any contract or lease executed or to be executed in connection with the bonds;

(i) the pledge of any taxes, revenues, receipts, rentals, or property, or encumbrance thereon or security interest therein to secure the bonds; and

(j) any covenants or provisions contained in or to be contained in the bonds. If any deed, will, statute, resolution, ordinance, lease, indenture, contract, franchise, or other instrument may have an effect on any of the aforementioned, validity also means a declaration of the validity and legality thereof and of rights, status, or other legal relations arising therefrom.

Amended by Chapter 378, 2010 General Session

11-30-3. Petition to establish validity of bonds -- Contents -- Court action.

(1) A public body may, at any time after it has authorized the issuance of bonds for other than a project financing involving more than one series of bonds to finance such project or at any time after it has authorized the issuance of the first series of bonds to finance a project in more than one series, but before the issuance and delivery of any such bonds or such first series of bonds, as the case may be, file a petition to establish the validity of such bonds.

(2) The petition shall be filed in the district court of the county in which the public body maintains its principal office, and shall name as defendants all taxpayers, property owners, citizens of the public body, including nonresidents owning property or subject to taxation therein, all other persons having or claiming any right, title, or interest in any property or funds affected by or to be affected by the bonds, all parties to any contract or instrument which is part of the validation proceedings, and, pursuant to Section 11-30-6, either the attorney general or the county attorney of the county in which the largest expenditure of proceeds of the bonds is expected to be made.

(3) The petition shall set forth and affirm, by proper allegation of law and fact:

(a) the statutory authority by which the petition is filed;

(b) the statutory authority by which the public body authorized the issuance of the bonds;

(c) the ordinance, resolution, or other proceedings by which the public body authorized the issuance and delivery of the bonds;

(d) the holding of an election and the results of that election, if an election was required;

(e) the purpose of the bonds; and

(f) the source of funds from which the bonds are to be paid.

(4) The petitioner may set forth any additional information with respect to such bonds and any questions of law or fact concerning the validity of the bonds that the petitioner desires the court to adjudicate separately in rendering its judgment, as well as those allegations of law or fact necessary to its consideration.

(5) The petitioner shall then petition the court to render judgment affirming the validity of the bonds and to pass upon any questions for separate adjudication set forth in the petition. Any petitioner may amend or supplement the petition at any time on or before the hearing, but not thereafter without permission of the court.

(6) No amendment or supplement may require republication of the order unless there has been a change in the issuer or there has been a substantial change in the use of the proceeds or the manner of repayment of the bonds.

Enacted by Chapter 197, 1987 General Session

11-30-4. Hearing on petition.

Upon the filing of the petition, the court shall issue an order in the form of a notice against all defendants requiring them to appear at a time and place to be designated in the order, and to show cause why the prayers of the petition should not be granted. The time of the hearing shall be not less than 20 nor more than 30 days from the date of the issuing of the order. The place of the hearing shall be within the county in which the petition is filed. The order shall set forth a general description of the petition but need not set forth the entire petition or any attached exhibits.

Enacted by Chapter 197, 1987 General Session

11-30-5. Publication of order for hearing.

(1) Prior to the date set for hearing, the clerk of the court shall cause the order to be published:

(a) once each week for three consecutive weeks:

(i) in a newspaper published or of general circulation within the boundaries of the public body; or

(ii) if the public body has no defined boundaries or there is no newspaper published or of general circulation within the defined boundaries, a newspaper reasonably calculated to notify all parties, which has been approved by the court; and

(b) in accordance with Section 45-1-101 for three weeks.

(2) If a refunding bond is being validated, all holders of the bonds to be refunded

may be made defendants to the action, in which case notice may be made, and if so made shall be considered sufficient, by mailing a copy of the order to each holder's last-known address.

(3) By publication of the order, all defendants shall have been duly served and shall be parties to the proceedings.

Amended by Chapter 388, 2009 General Session

11-30-6. Contest of petition by attorney general or county attorney -- Attorney general and county attorney as parties.

(1) A copy of the petition and order shall be served on the attorney general at least 20 days before the hearing. Upon receipt of the petition, the attorney general shall carefully examine the petition and, if the petition is believed to be defective, insufficient, or untrue, or if, in the attorney general's opinion, a reasonable question exists as to the validity of the bonds, the attorney general shall contest the petition. If neither of those conditions exists or if one or more other parties to the action will, in the attorney general's opinion, competently contest the petition, the attorney general may, upon approval of the court, be dismissed as a defendant.

(2) If the petition is filed by the state or any agency, authority, instrumentality, or institution of the state, the attorney general may not be made a party to the proceeding and notice shall be served on the county attorney in the county in which the largest expenditure of the proceeds of the bonds is expected to be made. That county attorney shall then in all respects perform the role of the attorney general as set forth in this section.

(3) The attorney general or county attorney, as the case may be, may waive his right of appeal and that waiver shall be binding on all successors and assigns.

(4) All costs of the attorney general or county attorney incurred in performing duties imposed by this section shall be reimbursed from the proceeds of the bonds if the bonds are issued.

Enacted by Chapter 197, 1987 General Session

11-30-7. Pleadings -- Questions of law and fact -- Judgment.

(1) A defendant may file, amend, or supplement any pleading to the proceeding at any time on or before the hearing, but not after the hearing begins, unless permission is given by the court.

(2) At the time and place designated in the order, the court shall:

(a) proceed to hear and determine all questions of law and fact; and

(b) enter orders that will best enable the court properly to try and determine all questions of law and fact and to enter a judgment with the least possible delay.

(3) The judgment shall be based upon a written opinion of the court that:

(a) makes findings of fact; and

(b) separately states the court's conclusions of law.

(4) To the extent possible and practicable under the circumstances, the court shall render final judgment within 10 days after the day on which the hearing is concluded.

Amended by Chapter 134, 2012 General Session

11-30-8. Injunction -- Other orders.

(1) Upon motion of the public body to the court in which the validation proceeding is pending, whether before or after the date set for hearing, the court may:

(a) enjoin the commencement, prosecution, or maintenance of any other action involving the validity of the bonds;

(b) order all other actions or proceedings consolidated with the validation proceeding pending before the court; and

(c) make orders that are necessary or proper to effect consolidation or to avoid unnecessary costs or delays.

(2) The orders described in Subsection (1) are not appealable.

Amended by Chapter 134, 2012 General Session

11-30-9. Failure of validity based on substantial defects or material errors and omissions.

No court may fail to declare bonds valid under this chapter unless the court finds substantial defects or material errors and omissions in the issuance of the bonds. Matters of form shall be disregarded.

Enacted by Chapter 197, 1987 General Session

11-30-10. Appeals to Supreme Court.

(1) An appeal may be taken only to the Supreme Court and may be taken only by a party appearing at the hearing.

(2) No appeal is allowed unless the notice of appeal is filed within 10 days after the date of entry of the judgment.

(3) The Supreme Court shall expedite and give priority to the docketing, briefing, hearing, and decision on appeal.

Amended by Chapter 134, 2012 General Session

11-30-11. Final judgment -- Permanent injunction.

(1) If the judgment upholds the validity of the bonds, and no appeal is taken, or if an appeal is taken from any judgment and at any time thereafter a judgment is rendered holding the bonds to be valid, the judgment shall, notwithstanding any other provision of law, including, without limitation, Rules 55(c) and 60(b) of the Utah Rules of Civil Procedure, be binding and conclusive as to the validity of the bonds against the public body issuing the bonds and all other parties to the petition, and shall constitute a permanent injunction against the institution by any person of any action or proceeding contesting the validity of the bonds or any other matter adjudicated or that might have been adjudicated in the proceedings.

(2) After a final judgment has been entered holding the bonds to be valid, as to any action or proceeding contesting the validity of the bonds or any other matter

adjudicated or that might have been adjudicated in the proceedings: (a) no court has jurisdiction to adjudicate such matters; and (b) all rights of taxpayers, citizens, and others to litigate such matters shall lapse.

Enacted by Chapter 197, 1987 General Session

11-30-12. No challenge based on procedural error.

No bond validated under this chapter may be challenged because the validation proceeding was not in compliance with this chapter unless the deficiency renders the proceeding in any way unconstitutional.

Enacted by Chapter 197, 1987 General Session

11-30-13. Chapter controlling in conflict of laws.

To the extent that provisions of this chapter are in conflict with any other law, the provisions of this chapter are controlling.

Enacted by Chapter 197, 1987 General Session

11-31-1. Short title.

This chapter is known as the "Utah Public Finance Act."

Enacted by Chapter 199, 1987 General Session

11-31-2. Definitions.

As used in this chapter:

(1) "Bonds" means any evidence or contract of indebtedness that is issued or authorized by a public body, including, without limitation, bonds, refunding bonds, advance refunding bonds, bond anticipation notes, tax anticipation notes, notes, certificates of indebtedness, warrants, commercial paper, contracts, and leases, whether they are general obligations of the issuing public body or are payable solely from a specified source, including annual appropriations by the public body.

(2) "Legislative body" means, with respect to any action to be taken by a public body with respect to bonds, the board, commission, council, agency, or other similar body authorized by law to take legislative action on behalf of the public body, and in the case of the state, the Legislature, the state treasurer, the commission created under Section 63B-1-201, and any other entities the Legislature designates.

(3) "Public body" means the state and any public department, public agency, or other public entity existing under the laws of the state, including, without limitation, any agency, authority, instrumentality, or institution of the state, and any county, city, town, municipal corporation, quasi-municipal corporation, state university or college, school district, special service district, local district, separate legal or administrative entity created under the Interlocal Cooperation Act or other joint agreement entity, community development and renewal agency, and any other political subdivision, public authority, public agency, or public trust existing under the laws of the state.

Amended by Chapter 378, 2010 General Session

11-31-3. Issuance of bonds -- Registration for offer and sale.

(1) Any bonds authorized by law to be issued may be issued without regard to the treatment of interest on those bonds for purposes of federal income taxation.

(2) (a) Any public body authorized to issue bonds may take any actions and enter into any agreements necessary or appropriate to register or qualify the bonds described in this section for offer and sale under the federal or any state's or nation's securities laws and to comply with those laws.

(b) Those actions and agreements on behalf of the state may be taken and entered into by the commission created under Section 63B-1-201 or by the state treasurer, as appropriate.

Amended by Chapter 12, 2001 General Session

11-32-1. Short title.

(1) This chapter shall be known as the "Utah Interlocal Financing Authority Act."

(2) All bonds issued pursuant to authority of this chapter shall contain on their face a recital to that effect.

Enacted by Chapter 143, 1987 General Session

11-32-2. Definitions.

As used in this chapter:

(1) "Assignment agreement" means the agreement, security agreement, indenture, or other documentation by which the county transfers the delinquent tax receivables to the authority in consideration of the amounts paid by the authority under the assignment agreement, as provided in this chapter.

(2) "Bonds" means any bonds, notes, or other evidence of indebtedness of the financing authority issued under this chapter.

(3) "Delinquent tax receivables" means those ad valorem tangible property taxes levied within any county, for any year, which remain unpaid and owing the participant members within the county, as of January 15 of the following year, plus any interest and penalties accruing or assessed to them.

(4) "Financing authority" or "authority" means a nonprofit corporation organized under this chapter by a county on behalf of the participant members within the county as the financing authority for the participant members solely for the purpose of financing the assignment of the delinquent tax receivables of the participant members for which it was created.

(5) "Governing body" means the council, commission, county legislative body, board of education, board of trustees, or any other governing entity of a public body in which the legislative powers of the public body are vested.

(6) "Participant members" means those public bodies, including the county, the governing bodies of which approve the creation of an authority as provided in Section 11-32-3 and on whose behalf the authority acts.

(7) "Public body" means any city, town, county, school district, special service

district, local district, community development and renewal agency, or any other entity entitled to receive ad valorem property taxes, existing under the laws of the state.

Amended by Chapter 360, 2008 General Session

11-32-3. Creation of county interlocal finance authority as nonprofit corporation -- Organization -- Acquisition of delinquent tax receivables -- Personnel -- Duties of elected attorney and treasurer.

(1) The governing body of any county within the state may, by resolution, organize a nonprofit corporation as the financing authority for the county on behalf of public bodies within the county under this chapter, following the procedures set out in Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, solely for the purpose of accomplishing the public purposes for which the public bodies exist by financing the sale or assignment of the delinquent tax receivables within the county to the financing authority. The authority shall be known as the "Interlocal Finance Authority of (name of county)."

(2) If the governing body of any county creates an authority on behalf of any other public body within the county, the resolution shall further state the name or names of the other public bodies. A certified copy of the resolution creating the authority shall be delivered to the governing body of the other public bodies. The governing bodies of each of the other public bodies shall either approve or reject the creation of the authority, but if no action has been taken within 30 days of delivery of the certified copy of the resolution to the governing body it shall be considered rejected.

(3) Following the approval, rejection, or considered rejection of the resolution by the governing bodies of each of the public bodies listed in the initial resolution, the county shall then amend the resolution to delete the public bodies rejecting the resolution and shall list the participant members of the authority.

(4) The governing bodies of the participant members shall approve the articles of incorporation and bylaws of the authority. Members of governing bodies of each of the participant members, or a paid employee of the governing body designated by the member, shall be selected to form and shall act as the board of trustees of the authority. The powers of the board of trustees may be vested in an executive committee to be selected from among the board of trustees by the members of the board of trustees. The articles of incorporation and bylaws shall provide that the members of the board of trustees of the authority may be removed and replaced by the governing body from which such member was selected at any time in its discretion. A majority of the governing bodies of the participant members, based upon a percentage of the property taxes levied for the year preceding the then current year, within the county may, alter or change the structure, organization, programs, or activities of the financing authority, subject to the rights of the holders of the authority's bonds and parties to its other obligations.

(5) Each financing authority may acquire by assignment the delinquent tax receivables of the participant members creating the financing authority, in accordance with the procedures and subject to the limitations of this chapter, in order to accomplish the public purposes for which the participant members exist.

(6) Except as limited by Subsection (7), a financing authority may contract for or

employ all staff and other personnel necessary for the purpose of performing its functions and activities, including contracting with the participant members within the county that created it to utilize any of the personnel, property, or facilities of any of the participant members for that purpose. The authority may be reimbursed for such costs by the participant member as provided in its articles of incorporation or bylaws.

(7) (a) With respect to any county that creates a financing authority and which has an elected attorney or treasurer, or both, the elected attorney shall be the legal advisor to and provide all legal services for the authority, and the elected treasurer shall provide all accounting services for the authority. The authority shall reimburse the county for legal and accounting services so furnished by the county, based upon the actual cost of the services, including reasonable amounts allocated by the county for overhead, employee fringe benefits, and general and administrative expenses.

(b) The provisions of Subsection (7) may not prevent the financing authority from obtaining the accounting or auditing services from outside accountants or auditors with the consent of the elected treasurer and the governing bodies or from obtaining legal services from outside attorneys with the consent of the elected attorney and the governing bodies. The provisions of this subsection may not prevent the authority from obtaining the opinions of outside attorneys or accountants which are necessary for the issuance of the bonds of the authority.

(c) If 50% or more of the governing bodies of the participant members, based upon property taxes charged for the preceding year as a percentage of all of the property taxes charged within the county for that year, find it advisable that the authority retain legal or accounting services other than as described in Subsection (7)(a) they may direct the board of trustees to do so.

Amended by Chapter 300, 2000 General Session

11-32-3.5. Entry into an established interlocal finance authority -- Withdrawal from an interlocal finance authority -- Effect of outstanding debt -- Effect on organization.

(1) The governing body of any public body, which is not at that time a member of a financing authority established in the county in which the public body is located, may, by resolution, elect to join the authority.

(2) The resolution shall state the name of the public body and that the public body thereby petitions for membership in the authority. A certified copy of the resolution shall be delivered to the authority.

(3) The public body shall become a participant member of the authority, upon receipt by the authority of the resolution, but only with respect to any financing initiated after the public body has become a member of the authority.

(4) A participant member may elect to withdraw from an authority by resolution adopted by the governing body of the participant member following:

(a) the payment of all outstanding bonds for which a participant member's delinquent tax receivables have been assigned;

(b) the distribution of remaining amounts as provided in Section 11-32-15; and

(c) satisfactory completion of any independent accounting audits requested by the authority or the county.

(5) The resolution of the governing body of the public body which is withdrawing its membership shall state the name of the public body it represents and that the public body thereby petitions for withdrawal from the authority. A certified copy of the resolution shall be delivered to the authority. The membership of the public body in the authority shall terminate upon receipt of the resolution by the authority.

(6) A public body which has withdrawn from membership in an authority may elect to join such authority to participate in future financings by the authority.

(7) (a) By resolution of its governing body, a participant member may elect not to participate in future financings of the authority. Such election shall be effective upon delivery of a certified copy of the resolution to the authority.

(b) In addition to the method outlined in Subsection (7)(a), a participant member may be considered to have elected not to participate in future financings in any reasonable manner selected by the authority.

(8) For purposes of determining the presence of a quorum of the board of trustees or for other purposes, the board of trustees of an authority may treat participant members which have elected or are considered to have elected not to participate in a financing as not being participant members.

(9) The composition organization of the authority shall change upon the entrance, election to participate, election not to participate, or withdrawal of a participant member.

Amended by Chapter 324, 2010 General Session

11-32-4. Assignment of rights to receive delinquent tax receivables to financing authority -- Documentation -- Agreement.

(1) At any time following the date of delinquency for property in Title 59, Chapter 2, Part 13, the governing body of any county desiring to implement the provisions of this chapter by assigning the delinquent tax receivables of the participant members to its authority shall ascertain the amount of delinquent taxes owed to the participant members within the county. After ascertaining the amount of delinquent tax receivables owed, the governing body of the county may, as agent for the other participant members, assign the rights of the participant members to receive the delinquent tax receivables, in whole or in part, as designated by the governing body of the county, to the financing authority. The assignment of rights described above shall take the form of an assignment of an account receivables. The purchase price paid by the authority may be equal to, greater than, or less than the amount of the delinquent tax receivables sold to the authority. The documentation by which the transfer of the delinquent tax receivables are made shall contain the following:

(a) the tax year or years for which the delinquent taxes owing were levied;

(b) the amount of taxes, interest, and penalties due to the participant members with respect to the tax years as of the date the accounts are assigned;

(c) the tax identification numbers or other descriptions of the specific properties with respect to which the delinquent tax receivables are being assigned;

(d) the interest rate at which the delinquent taxes subject to the assignment bear interest pursuant to Section 59-2-1331;

(e) the discount or premium, if any, at which the account is assigned;

(f) a certificate representing the transfer of the rights of the county and the other participant members to receive the amounts due and owing the county and the other participant members with respect to the delinquent tax receivables transferred; and

(g) certification by the governing body of the county that all amounts received by the county with respect to the delinquent taxes, interest, and penalties assigned to the authority and owed to the county and the other participant members, for the tax years specified, upon the specified property, and the additional interest and penalties to accrue on the delinquent amounts, shall be deposited upon receipt into a special fund of the county created for this purpose and shall be used solely to pay the amounts falling due to the financing authority as specified in the assignment agreement.

(2) The assignment agreement shall contain a statement to the effect that any amounts falling due under it are payable solely from a special fund into which the county shall pay the amounts collected with respect to the delinquent tax receivables pledged and shall state that under no circumstances may the county or any of the other participant members be required to use any other funds, property, or money of the county or the other participant members or to levy any tax to satisfy amounts due under the agreement.

Amended by Chapter 181, 1995 General Session

11-32-5. Bonds authorized to pay costs of purchase of delinquent tax receivables.

(1) A financing authority may issue and sell its bonds on behalf of the participant members for the purpose of:

(a) paying the costs of purchasing the delinquent tax receivables of the participant members;

(b) paying the costs associated with the issuance of the bonds, including fees and premiums for letters of credit, bond insurance, or other forms of credit enhancement; and

(c) funding any reserve funds with respect to the bonds.

(2) The aggregate principal amount of any bonds issued pursuant to this section may not exceed 90% of the delinquent tax receivables to be purchased with the proceeds of the bonds.

(3) Bonds shall be fully negotiable for all purposes, shall bear such date or dates, shall be issued in such denominations and in such form, shall be serial bonds or term bonds, or both, shall mature at such times not exceeding 4-1/2 years from date of issue, shall bear such interest rate or rates, shall have such registration privileges, shall be executed in such manner, and shall be payable at such places and in such medium of payment as specified by the board of trustees of the financing authority in the proceedings authorizing the bonds.

(4) The bonds may bear interest at a variable interest rate as the board of trustees may authorize. The board of trustees may establish a method, formula, or index pursuant to which the interest rate on the bonds may be determined from time to time.

(5) The board of trustees of the financing authority may provide for an option to redeem all or a part of the bonds issued prior to maturity upon terms established by it.

The bonds shall be sold at public or private sale upon the terms, in the manner, and at such prices, either at, in excess of, or below their face value, as determined by the board of trustees of the financing authority. Bonds may be issued in one or more series. No person executing any bond or assignment agreement under this chapter is subject to personal liability or accountability by reason of this. Bonds shall be authorized, executed, and issued in accordance with this chapter, the articles of incorporation, and the bylaws of the financing authority. No bonds may be issued by a financing authority unless the issuance of the bonds and the terms of the bonds have been approved by the governing body of the county.

Enacted by Chapter 143, 1987 General Session

11-32-6. Payment of bonds.

(1) Except as secured as provided in Subsection 11-32-7(1)(c), all bonds issued by a financing authority and the interest and premium, if any, on them, shall be payable solely out of amounts received by the authority under the assignment agreement with respect to the delinquent tax receivables acquired with the proceeds of that issue of bonds and from the proceeds of the bonds. All bonds shall so state on their face.

(2) The amounts payable by the county or the participant members under the assignment agreement shall be payable solely from a special fund into which the county shall pay all of the amounts received with respect to the delinquent tax receivables covered by the assignment agreement. All bonds shall so state on their face.

(3) Nothing in this chapter may be construed as requiring the state of Utah or any political subdivision of the state to pay any amounts due on any bond issued under this chapter, or, except for the county and the other participant members, to pay any amount due to a financing authority under the terms of any assignment agreement.

(4) Except with respect to the delinquent tax receivables pledged, nothing in this chapter may be construed as requiring the county or any participant member to appropriate any money to pay principal of or interest on the bonds or the amounts due under any assignment agreement.

(5) If a county or any participant member fails to pay any amounts due to an authority under any assignment agreement, the authority may compel the county to take the necessary legal action to collect the delinquent tax receivables covered by the assignment agreement and to use any or all of the statutory means it has to collect the delinquent taxes.

Enacted by Chapter 143, 1987 General Session

11-32-7. Bond principal and interest -- Security agreements -- Trustee.

(1) The principal of and interest on any bonds issued under this chapter:

(a) shall be secured by a pledge and assignment of the revenues received by the financing authority under the assignment agreement with respect to the delinquent tax receivables purchased with the proceeds of the sale of these bonds;

(b) may be secured by a pledge and security interest in the assignment agreement; and

(c) may be secured by amounts held in reserve funds, letters of credit, bond

insurance, surety bonds, or by such other security devices with respect to the delinquent tax receivables deemed most advantageous by the authority.

(2) The proceedings under which the bonds are authorized to be issued under this chapter and any security agreement given to secure the bonds may contain any agreements and provisions customarily contained in instruments securing bonds, including provisions respecting:

(a) the collection of the delinquent taxes covered by these proceedings or any security agreement;

(b) the terms to be incorporated in the assignment agreement with respect to the delinquent tax receivables;

(c) the creation and maintenance of reserve funds from the proceeds of sale of bonds or from the collection of the delinquent taxes;

(d) the rights and remedies available to the holders of bonds or to the trustee in the event of a default, as the board of trustees of the authority may determine in accordance with this chapter.

(3) The security agreements, trust indentures, or other security devices shall provide that following the exhaustion of all legal means of collection of the delinquent tax receivables no judgment may be entered against the authority or the county or any participant members or the state of Utah or any of its political subdivisions.

(4) The proceedings authorizing bonds under this chapter, and any security agreement securing these bonds, may provide that upon default in the payment of the principal of or interest on the bonds or in the performance of any covenant or agreement contained in the proceedings or security agreement, the payment or performance may be enforced by the appointment of a receiver for the delinquent tax receivables with power to compel the county to use the statutory means it has to collect the delinquent tax receivables and apply the revenues in accordance with these proceedings or the security agreement.

(5) No breach of a security agreement, covenant, or other agreement may impose any general obligation or liability upon, nor a charge against, the county or any participant member, nor the general credit or taxing power of this state or any of its political subdivisions.

(6) The proceedings authorizing the issuance of bonds may provide for the appointment of a trustee, which may be a trust company or bank having trust powers located in or outside of this state.

Amended by Chapter 378, 2010 General Session

11-32-8. Dissolution of financing authority.

(1) The governing body of a county may at any time dissolve a financing authority created by the county in the manner then provided in Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, subject to the limitations of this chapter.

(2) A financing authority may not be dissolved unless all outstanding bonds and other obligations of the authority are paid in full as to principal, interest, and redemption premiums, if any, or unless provision for the payment of them when due has been made.

(3) Upon the dissolution of a financing authority all assets and money of the

authority remaining after a provision has been made for the payment of all outstanding bonds and obligations of the authority shall be transferred to the participant members as described in Section 11-32-15 or as agreed upon between the county and the other participant members.

Amended by Chapter 300, 2000 General Session

11-32-9. Tax exemption.

All amounts becoming due under assignment agreements and all bonds issued by a financing authority and the interest accruing on them shall be exempt from all taxation in this state, except for the corporate franchise tax.

Enacted by Chapter 143, 1987 General Session

11-32-10. Application to other laws and proceedings.

(1) This chapter is supplemental to all existing laws relating to the collection of delinquent taxes by participant members.

(2) (a) No ordinance, resolution, or proceeding in respect to any transaction authorized by this chapter is necessary except as specifically required in this chapter nor is the publication of any resolution, proceeding, or notice relating to any transaction authorized by this chapter necessary except as required by this chapter.

(b) A publication made under this chapter may be made:

(i) in a newspaper conforming to the terms of this chapter and in which legal notices may be published under the laws of Utah, without regard to the designation of it as the official journal or newspaper of the public body; and

(ii) as required in Section 45-1-101.

(c) No resolution adopted or proceeding taken under this chapter may be subject to referendum petition or to an election other than as permitted in this chapter.

(d) All proceedings adopted under this chapter may be adopted on a single reading at any legally convened meeting of the governing body or bodies or the board of trustees of the authority as appropriate.

(3) Any formal action or proceeding taken by the governing body of a county or other public body or the board of trustees of an authority under the authority of this chapter may be taken by resolution of the governing body or the board of trustees as appropriate.

(4) This chapter shall apply to all authorities created, assignment agreements executed, and bonds issued after this chapter takes effect.

(5) All proceedings taken before the effective date of this chapter by a county or other public body in connection with the creation and operation of a financing authority are validated, ratified, approved, and confirmed.

Amended by Chapter 388, 2009 General Session

11-32-11. Publication of resolutions -- Notice -- Content.

(1) The governing body of any county, or the board of trustees of any financing authority, may provide for the publication of any resolution or other proceeding adopted

by it under this chapter:

(a) in a newspaper having general circulation in the county; and

(b) as required in Section 45-1-101.

(2) In case of a resolution or other proceeding providing for the issuance of bonds, the board of trustees of a financing authority may, in lieu of publishing the entire resolution or other proceeding, publish a notice of bonds to be issued, titled as such, containing:

(a) the name of the financing authority and the participant members;

(b) the purposes of the issue;

(c) the maximum principal amount which may be issued;

(d) the maximum number of years over which the bonds may mature;

(e) the maximum interest rate which the bonds may bear;

(f) the maximum discount from par, expressed as a percentage of principal amount, at which the bonds may be sold; and

(g) the time and place where a copy of the resolution or other proceedings authorizing the issuance of the bonds may be examined, which shall be at an office of the financing authority, identified in the notice, during regular business hours of the financing authority as described in the notice and for a period of at least 30 days after the publication of the notice.

(3) For a period of 30 days after the publication, any person in interest may contest the legality of the resolution or proceeding or any bonds or assignment agreements which may be authorized by them or any provisions made for the security and payment of the bonds or for the security and payment of the assignment agreement. After such time no person has any cause of action to contest the regularity, formality, or legality of same for any cause.

Amended by Chapter 388, 2009 General Session

11-32-12. Investment in and deposit of bonds.

Bonds issued under this chapter shall be securities in which all persons and organizations authorized to invest in any obligations of political subdivisions of this state, may properly and legally invest any funds, including capital belonging to them or within their control. Bonds are also declared to be securities which may properly and legally be deposited with, and received by, any state, county, or municipal officer, or agency of the state for any purpose for which the deposit of any obligations of political subdivisions of this state is authorized by law.

Enacted by Chapter 143, 1987 General Session

11-32-13. Financing authority as public entity -- Liberal construction of chapter.

A financing authority is a public entity and an instrumentality of the state performing essential governmental functions on behalf of participant members. To better enable financing authorities to perform these functions, this chapter shall be liberally construed.

Enacted by Chapter 143, 1987 General Session

11-32-14. Provisions of chapter control when conflict occurs.

To the extent that any one or more provisions of this chapter are in conflict with any other law or laws, the provisions of this chapter are controlling.

Enacted by Chapter 143, 1987 General Session

11-32-15. Special fund -- Apportionment of excess amounts.

(1) The provisions of Title 59, Revenue and Taxation, otherwise notwithstanding, delinquent taxes paid to the county on behalf of the participant members shall be paid into the special fund created with respect to the bonds issued by any authority.

(2) Following the payment of all bonds issued with respect to any delinquent tax receivables and all other amounts due and owing under any assignment agreement, amounts remaining on deposit with the authority or in the special fund created with respect to the issuance of the bonds shall be apportioned and distributed as follows:

(a) Any amounts which represent the amount by which the delinquent taxes recovered exceed the amount originally paid by the authority at the time of transfer of the delinquent tax receivables to the authority shall be distributed to the respective participant members, including the county, in the proportion of their respective taxes.

(b) Any amounts remaining following the distribution directed in Subsection (2)(a) shall be paid to the county.

Amended by Chapter 324, 2010 General Session

11-32-16. Deferral or abatement of taxes unaffected.

The provisions of this chapter may not be construed to prevent the county from exercising any of its powers to defer or abate taxes as provided by statute.

Enacted by Chapter 143, 1987 General Session

11-32-17. Anticipation of taxes to be considered in fixing tax rate.

To the extent that a participant member uses the provisions of this chapter to anticipate the collection of delinquent taxes in any given year, such participant member shall take such anticipation into account in fixing its tax rate for the following year.

Enacted by Chapter 143, 1987 General Session

11-34-1. Definitions.

As used in this chapter:

(1) "Bonds" means any evidence or contract of indebtedness that is issued or authorized by a public body, including, without limitation, bonds, refunding bonds, advance refunding bonds, bond anticipation notes, tax anticipation notes, notes, certificates of indebtedness, warrants, commercial paper, contracts, and leases, whether they are general obligations of the issuing public body or are payable solely

from a specified source, including annual appropriations by the public body.

(2) "Public body" means the state and any public department, public agency, or other public entity existing under the laws of the state, including, without limitation, any agency, authority, instrumentality, or institution of the state, and any county, city, town, municipal corporation, quasi-municipal corporation, state university or college, school district, special service district, local district, separate legal or administrative entity created under the Interlocal Cooperation Act or other joint agreement entity, community development and renewal agency, and any other political subdivision, public authority, public agency, or public trust existing under the laws of this state.

Amended by Chapter 378, 2010 General Session

11-34-2. Bonds issued in foreign denominations -- Required conditions and agreements.

Any bonds issued by a public body may be denominated in a foreign currency, but only if, at the time of the issuance of the bonds, the public body which issues them enters into one or more foreign exchange agreements, forward exchange agreements, foreign currency exchange agreements, or other similar agreements with a bank or other financial institution, foreign or domestic, the senior unsecured long-term debt obligations of which are rated in one of the highest two rating categories by Moody's Investors Service, Inc. or Standard & Poor's Corporation or another similar nationally recognized securities rating agency, to protect the public body against the risk of a decline in the value of the United States dollar in relation to the foreign currency in which the bonds are denominated. Such agreements shall contain a provision that protects against the risk of a decline in the value of the United States dollar with respect to the interest on the bonds and the principal of the bonds to the maturity or redemption thereof. The costs of such agreements, including without limitation periodic fees and other amounts due to the other party or parties to such agreements, may be paid by the public body from the proceeds of the bonds and other revenues of the public body.

Amended by Chapter 378, 2010 General Session

11-36a-101. Title.

This chapter is known as the "Impact Fees Act."

Enacted by Chapter 47, 2011 General Session

11-36a-102. Definitions.

As used in this chapter:

(1) (a) "Affected entity" means each county, municipality, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Chapter 13, Interlocal Cooperation Act, and specified public utility:

(i) whose services or facilities are likely to require expansion or significant modification because of the facilities proposed in the proposed impact fee facilities

plan; or

(ii) that has filed with the local political subdivision or private entity a copy of the general or long-range plan of the county, municipality, local district, special service district, school district, interlocal cooperation entity, or specified public utility.

(b) "Affected entity" does not include the local political subdivision or private entity that is required under Section 11-36a-501 to provide notice.

(2) "Charter school" includes:

(a) an operating charter school;

(b) an applicant for a charter school whose application has been approved by a chartering entity as provided in Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and

(c) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(3) "Development activity" means any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any changes in the use of land that creates additional demand and need for public facilities.

(4) "Development approval" means:

(a) except as provided in Subsection (4)(b), any written authorization from a local political subdivision that authorizes the commencement of development activity;

(b) development activity, for a public entity that may develop without written authorization from a local political subdivision;

(c) a written authorization from a public water supplier, as defined in Section 73-1-4, or a private water company:

(i) to reserve or provide:

(A) a water right;

(B) a system capacity; or

(C) a distribution facility; or

(ii) to deliver for a development activity:

(A) culinary water; or

(B) irrigation water; or

(d) a written authorization from a sanitary sewer authority, as defined in Section 10-9a-103:

(i) to reserve or provide:

(A) sewer collection capacity; or

(B) treatment capacity; or

(ii) to provide sewer service for a development activity.

(5) "Enactment" means:

(a) a municipal ordinance, for a municipality;

(b) a county ordinance, for a county; and

(c) a governing board resolution, for a local district, special service district, or private entity.

(6) "Encumber" means:

(a) a pledge to retire a debt; or

(b) an allocation to a current purchase order or contract.

(7) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a gas, water, sewer, storm water, power, or other

utility system of a municipality, county, local district, special service district, or private entity.

(8) (a) "Impact fee" means a payment of money imposed upon new development activity as a condition of development approval to mitigate the impact of the new development on public infrastructure.

(b) "Impact fee" does not mean a tax, a special assessment, a building permit fee, a hookup fee, a fee for project improvements, or other reasonable permit or application fee.

(9) "Impact fee analysis" means the written analysis of each impact fee required by Section 11-36a-303.

(10) "Impact fee facilities plan" means the plan required by Section 11-36a-301.

(11) "Level of service" means the defined performance standard or unit of demand for each capital component of a public facility within a service area.

(12) (a) "Local political subdivision" means a county, a municipality, a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.

(b) "Local political subdivision" does not mean a school district, whose impact fee activity is governed by Section 53A-20-100.5.

(13) "Private entity" means an entity in private ownership with at least 100 individual shareholders, customers, or connections, that is located in a first, second, third, or fourth class county and provides water to an applicant for development approval who is required to obtain water from the private entity either as a:

(a) specific condition of development approval by a local political subdivision acting pursuant to a prior agreement, whether written or unwritten, with the private entity; or

(b) functional condition of development approval because the private entity:

(i) has no reasonably equivalent competition in the immediate market; and

(ii) is the only realistic source of water for the applicant's development.

(14) (a) "Project improvements" means site improvements and facilities that are:

(i) planned and designed to provide service for development resulting from a development activity;

(ii) necessary for the use and convenience of the occupants or users of development resulting from a development activity; and

(iii) not identified or reimbursed as a system improvement.

(b) "Project improvements" does not mean system improvements.

(15) "Proportionate share" means the cost of public facility improvements that are roughly proportionate and reasonably related to the service demands and needs of any development activity.

(16) "Public facilities" means only the following impact fee facilities that have a life expectancy of 10 or more years and are owned or operated by or on behalf of a local political subdivision or private entity:

(a) water rights and water supply, treatment, storage, and distribution facilities;

(b) wastewater collection and treatment facilities;

(c) storm water, drainage, and flood control facilities;

(d) municipal power facilities;

(e) roadway facilities;

(f) parks, recreation facilities, open space, and trails;

(g) public safety facilities; or

(h) environmental mitigation as provided in Section 11-36a-205.

(17) (a) "Public safety facility" means:

(i) a building constructed or leased to house police, fire, or other public safety entities; or

(ii) a fire suppression vehicle costing in excess of $500,000.

(b) "Public safety facility" does not mean a jail, prison, or other place of involuntary incarceration.

(18) (a) "Roadway facilities" means a street or road that has been designated on an officially adopted subdivision plat, roadway plan, or general plan of a political subdivision, together with all necessary appurtenances.

(b) "Roadway facilities" includes associated improvements to a federal or state roadway only when the associated improvements:

(i) are necessitated by the new development; and

(ii) are not funded by the state or federal government.

(c) "Roadway facilities" does not mean federal or state roadways.

(19) (a) "Service area" means a geographic area designated by an entity that imposes an impact fee on the basis of sound planning or engineering principles in which a public facility, or a defined set of public facilities, provides service within the area.

(b) "Service area" may include the entire local political subdivision or an entire area served by a private entity.

(20) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

(21) (a) "System improvements" means:

(i) existing public facilities that are:

(A) identified in the impact fee analysis under Section 11-36a-304; and

(B) designed to provide services to service areas within the community at large; and

(ii) future public facilities identified in the impact fee analysis under Section 11-36a-304 that are intended to provide services to service areas within the community at large.

(b) "System improvements" does not mean project improvements.

Amended by Chapter 200, 2013 General Session

11-36a-201. Impact fees.

(1) A local political subdivision or private entity shall ensure that any imposed impact fees comply with the requirements of this chapter.

(2) A local political subdivision and private entity may establish impact fees only for those public facilities defined in Section 11-36a-102.

(3) Nothing in this chapter may be construed to repeal or otherwise eliminate an impact fee in effect on the effective date of this chapter that is pledged as a source of

revenues to pay bonded indebtedness that was incurred before the effective date of this chapter.

Enacted by Chapter 47, 2011 General Session

11-36a-202. Prohibitions on impact fees.

(1) A local political subdivision or private entity may not:

(a) impose an impact fee to:

(i) cure deficiencies in a public facility serving existing development;

(ii) raise the established level of service of a public facility serving existing development;

(iii) recoup more than the local political subdivision's or private entity's costs actually incurred for excess capacity in an existing system improvement; or

(iv) include an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with:

(A) generally accepted cost accounting practices; and

(B) the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement;

(b) delay the construction of a school or charter school because of a dispute with the school or charter school over impact fees; or

(c) impose or charge any other fees as a condition of development approval unless those fees are a reasonable charge for the service provided.

(2) (a) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee:

(i) on residential components of development to pay for a public safety facility that is a fire suppression vehicle;

(ii) on a school district or charter school for a park, recreation facility, open space, or trail;

(iii) on a school district or charter school unless:

(A) the development resulting from the school district's or charter school's development activity directly results in a need for additional system improvements for which the impact fee is imposed; and

(B) the impact fee is calculated to cover only the school district's or charter school's proportionate share of the cost of those additional system improvements; or

(iv) to the extent that the impact fee includes a component for a law enforcement facility, on development activity for:

(A) the Utah National Guard;

(B) the Utah Highway Patrol; or

(C) a state institution of higher education that has its own police force.

(b) (i) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee on development activity that consists of the construction of a school, whether by a school district or a charter school, if:

(A) the school is intended to replace another school, whether on the same or a different parcel;

(B) the new school creates no greater demand or need for public facilities than the school or school facilities, including any portable or modular classrooms that are on

the site of the replaced school at the time that the new school is proposed; and

(C) the new school and the school being replaced are both within the boundary of the local political subdivision or the jurisdiction of the private entity.

(ii) If the imposition of an impact fee on a new school is not prohibited under Subsection (2)(b)(i) because the new school creates a greater demand or need for public facilities than the school being replaced, the impact fee shall be based only on the demand or need that the new school creates for public facilities that exceeds the demand or need that the school being replaced creates for those public facilities.

(c) Notwithstanding any other provision of this chapter, a political subdivision or private entity may impose an impact fee for a road facility on the state only if and to the extent that:

(i) the state's development causes an impact on the road facility; and

(ii) the portion of the road facility related to an impact fee is not funded by the state or by the federal government.

(3) Notwithstanding any other provision of this chapter, a local political subdivision may impose and collect impact fees on behalf of a school district if authorized by Section 53A-20-100.5.

Enacted by Chapter 47, 2011 General Session

11-36a-203. Private entity assessment of impact fees -- Charges for water rights, physical infrastructure -- Notice -- Audit.

(1) A private entity:

(a) shall comply with the requirements of this chapter before imposing an impact fee; and

(b) except as otherwise specified in this chapter, is subject to the same requirements of this chapter as a local political subdivision.

(2) A private entity may only impose a charge for water rights or physical infrastructure necessary to provide water or sewer facilities by imposing an impact fee.

(3) Where notice and hearing requirements are specified, a private entity shall comply with the notice and hearing requirements for local districts.

(4) A private entity that assesses an impact fee under this chapter is subject to the audit requirements of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Enacted by Chapter 47, 2011 General Session

11-36a-204. Other names for impact fees.

(1) A fee that meets the definition of impact fee under Section 11-36a-102 is an impact fee subject to this chapter, regardless of what term the local political subdivision or private entity uses to refer to the fee.

(2) A local political subdivision or private entity may not avoid application of this chapter to a fee that meets the definition of an impact fee under Section 11-36a-102 by referring to the fee by another name.

Enacted by Chapter 47, 2011 General Session

11-36a-205. Environmental mitigation impact fees.

Notwithstanding the requirements and prohibitions of this chapter, a local political subdivision may impose and assess an impact fee for environmental mitigation when:

(1) the local political subdivision has formally agreed to fund a Habitat Conservation Plan to resolve conflicts with the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531, et seq. or other state or federal environmental law or regulation;

(2) the impact fee bears a reasonable relationship to the environmental mitigation required by the Habitat Conservation Plan; and

(3) the legislative body of the local political subdivision adopts an ordinance or resolution:

(a) declaring that an impact fee is required to finance the Habitat Conservation Plan;

(b) establishing periodic sunset dates for the impact fee; and

(c) requiring the legislative body to:

(i) review the impact fee on those sunset dates;

(ii) determine whether or not the impact fee is still required to finance the Habitat Conservation Plan; and

(iii) affirmatively reauthorize the impact fee if the legislative body finds that the impact fee must remain in effect.

Enacted by Chapter 47, 2011 General Session

11-36a-301. Impact fee facilities plan.

(1) Before imposing an impact fee, each local political subdivision or private entity shall, except as provided in Subsection (3), prepare an impact fee facilities plan to determine the public facilities required to serve development resulting from new development activity.

(2) A municipality or county need not prepare a separate impact fee facilities plan if the general plan required by Section 10-9a-401 or 17-27a-401, respectively, contains the elements required by Section 11-36a-302.

(3) A local political subdivision or a private entity with a population, or serving a population, of less than 5,000 as of the last federal census that charges impact fees of less than $250,000 annually need not comply with the impact fee facilities plan requirements of this part, but shall ensure that:

(a) the impact fees that the local political subdivision or private entity imposes are based upon a reasonable plan that otherwise complies with the common law and this chapter; and

(b) each applicable notice required by this chapter is given.

Amended by Chapter 200, 2013 General Session

11-36a-302. Impact fee facilities plan requirements -- Limitations -- School district or charter school.

(1) (a) An impact fee facilities plan shall:

(i) identify the existing level of service;

(ii) subject to Subsection (1)(c), establish a proposed level of service;

(iii) identify any excess capacity to accommodate future growth at the proposed level of service;

(iv) identify demands placed upon existing public facilities by new development activity at the proposed level of service; and

(v) identify the means by which the political subdivision or private entity will meet those growth demands.

(b) A proposed level of service may diminish or equal the existing level of service.

(c) A proposed level of service may:

(i) exceed the existing level of service if, independent of the use of impact fees, the political subdivision or private entity provides, implements, and maintains the means to increase the existing level of service for existing demand within six years of the date on which new growth is charged for the proposed level of service; or

(ii) establish a new public facility if, independent of the use of impact fees, the political subdivision or private entity provides, implements, and maintains the means to increase the existing level of service for existing demand within six years of the date on which new growth is charged for the proposed level of service.

(2) In preparing an impact fee facilities plan, each local political subdivision shall generally consider all revenue sources to finance the impacts on system improvements, including:

(a) grants;

(b) bonds;

(c) interfund loans;

(d) impact fees; and

(e) anticipated or accepted dedications of system improvements.

(3) A local political subdivision or private entity may only impose impact fees on development activities when the local political subdivision's or private entity's plan for financing system improvements establishes that impact fees are necessary to maintain a proposed level of service that complies with Subsection (1)(b) or (c).

(4) (a) Subject to Subsection (4)(c), the impact fee facilities plan shall include a public facility for which an impact fee may be charged or required for a school district or charter school if the local political subdivision is aware of the planned location of the school district facility or charter school:

(i) through the planning process; or

(ii) after receiving a written request from a school district or charter school that the public facility be included in the impact fee facilities plan.

(b) If necessary, a local political subdivision or private entity shall amend the impact fee facilities plan to reflect a public facility described in Subsection (4)(a).

(c) (i) In accordance with Subsections 10-9a-305(3) and 17-27a-305(3), a local political subdivision may not require a school district or charter school to participate in the cost of any roadway or sidewalk.

(ii) Notwithstanding Subsection (4)(c)(i), if a school district or charter school agrees to build a roadway or sidewalk, the roadway or sidewalk shall be included in the impact fee facilities plan if the local jurisdiction has an impact fee facilities plan for roads and sidewalks.

Amended by Chapter 200, 2013 General Session

11-36a-303. Impact fee analysis.

(1) Subject to the notice requirements of Section 11-36a-504, each local political subdivision or private entity intending to impose an impact fee shall prepare a written analysis of each impact fee.

(2) Each local political subdivision or private entity that prepares an impact fee analysis under Subsection (1) shall also prepare a summary of the impact fee analysis designed to be understood by a lay person.

Enacted by Chapter 47, 2011 General Session

11-36a-304. Impact fee analysis requirements.

(1) An impact fee analysis shall:

(a) identify the anticipated impact on or consumption of any existing capacity of a public facility by the anticipated development activity;

(b) identify the anticipated impact on system improvements required by the anticipated development activity to maintain the established level of service for each public facility;

(c) subject to Subsection (2), demonstrate how the anticipated impacts described in Subsections (1)(a) and (b) are reasonably related to the anticipated development activity;

(d) estimate the proportionate share of:

(i) the costs for existing capacity that will be recouped; and

(ii) the costs of impacts on system improvements that are reasonably related to the new development activity; and

(e) based on the requirements of this chapter, identify how the impact fee was calculated.

(2) In analyzing whether or not the proportionate share of the costs of public facilities are reasonably related to the new development activity, the local political subdivision or private entity, as the case may be, shall identify, if applicable:

(a) the cost of each existing public facility that has excess capacity to serve the anticipated development resulting from the new development activity;

(b) the cost of system improvements for each public facility;

(c) other than impact fees, the manner of financing for each public facility, such as user charges, special assessments, bonded indebtedness, general taxes, or federal grants;

(d) the relative extent to which development activity will contribute to financing the excess capacity of and system improvements for each existing public facility, by such means as user charges, special assessments, or payment from the proceeds of general taxes;

(e) the relative extent to which development activity will contribute to the cost of existing public facilities and system improvements in the future;

(f) the extent to which the development activity is entitled to a credit against impact fees because the development activity will dedicate system improvements or public facilities that will offset the demand for system improvements, inside or outside

the proposed development;

(g) extraordinary costs, if any, in servicing the newly developed properties; and

(h) the time-price differential inherent in fair comparisons of amounts paid at different times.

Enacted by Chapter 47, 2011 General Session

11-36a-305. Calculating impact fees.

(1) In calculating an impact fee, a local political subdivision or private entity may include:

(a) the construction contract price;

(b) the cost of acquiring land, improvements, materials, and fixtures;

(c) the cost for planning, surveying, and engineering fees for services provided for and directly related to the construction of the system improvements; and

(d) for a political subdivision, debt service charges, if the political subdivision might use impact fees as a revenue stream to pay the principal and interest on bonds, notes, or other obligations issued to finance the costs of the system improvements.

(2) In calculating an impact fee, each local political subdivision or private entity shall base amounts calculated under Subsection (1) on realistic estimates, and the assumptions underlying those estimates shall be disclosed in the impact fee analysis.

Enacted by Chapter 47, 2011 General Session

11-36a-306. Certification of impact fee analysis.

(1) An impact fee facilities plan shall include a written certification from the person or entity that prepares the impact fee facilities plan that states the following:
"I certify that the attached impact fee facilities plan:
1. includes only the costs of public facilities that are:

a. allowed under the Impact Fees Act; and

b. actually incurred; or

c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;

2. does not include:

a. costs of operation and maintenance of public facilities;

b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents; or

c. an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement; and

3. complies in each and every relevant respect with the Impact Fees Act."

(2) An impact fee analysis shall include a written certification from the person or entity that prepares the impact fee analysis which states as follows:
"I certify that the attached impact fee analysis:
1. includes only the costs of public facilities that are:

a. allowed under the Impact Fees Act; and

b. actually incurred; or

c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;

2. does not include:

a. costs of operation and maintenance of public facilities;

b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents; or

c. an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement;

3. offsets costs with grants or other alternate sources of payment; and

4. complies in each and every relevant respect with the Impact Fees Act."

Amended by Chapter 278, 2013 General Session

11-36a-401. Impact fee enactment.

(1) (a) A local political subdivision or private entity wishing to impose impact fees shall pass an impact fee enactment in accordance with Section 11-36a-402.

(b) An impact fee imposed by an impact fee enactment may not exceed the highest fee justified by the impact fee analysis.

(2) An impact fee enactment may not take effect until 90 days after the day on which the impact fee enactment is approved.

Enacted by Chapter 47, 2011 General Session

11-36a-402. Required provisions of impact fee enactment.

(1) A local political subdivision or private entity shall ensure, in addition to the requirements described in Subsections (2) and (3), that an impact fee enactment contains:

(a) a provision establishing one or more service areas within which the local political subdivision or private entity calculates and imposes impact fees for various land use categories;

(b) (i) a schedule of impact fees for each type of development activity that specifies the amount of the impact fee to be imposed for each type of system improvement; or

(ii) the formula that the local political subdivision or private entity, as the case may be, will use to calculate each impact fee;

(c) a provision authorizing the local political subdivision or private entity, as the case may be, to adjust the standard impact fee at the time the fee is charged to:

(i) respond to:

(A) unusual circumstances in specific cases; or

(B) a request for a prompt and individualized impact fee review for the development activity of the state, a school district, or a charter school and an offset or

credit for a public facility for which an impact fee has been or will be collected; and

(ii) ensure that the impact fees are imposed fairly; and

(d) a provision governing calculation of the amount of the impact fee to be imposed on a particular development that permits adjustment of the amount of the impact fee based upon studies and data submitted by the developer.

(2) A local political subdivision or private entity shall ensure that an impact fee enactment allows a developer, including a school district or a charter school, to receive a credit against or proportionate reimbursement of an impact fee if the developer:

(a) dedicates land for a system improvement;

(b) builds and dedicates some or all of a system improvement; or

(c) dedicates a public facility that the local political subdivision or private entity and the developer agree will reduce the need for a system improvement.

(3) A local political subdivision or private entity shall include a provision in an impact fee enactment that requires a credit against impact fees for any dedication of land for, improvement to, or new construction of, any system improvements provided by the developer if the facilities:

(a) are system improvements; or

(b) (i) are dedicated to the public; and

(ii) offset the need for an identified system improvement.

Enacted by Chapter 47, 2011 General Session

11-36a-403. Other provisions of impact fee enactment.

(1) A local political subdivision or private entity may include a provision in an impact fee enactment that:

(a) provides an impact fee exemption for:

(i) development activity attributable to:

(A) low income housing;

(B) the state;

(C) subject to Subsection (2), a school district; or

(D) subject to Subsection (2), a charter school; or

(ii) other development activity with a broad public purpose; and

(b) except for an exemption under Subsection (1)(a)(i)(A), establishes one or more sources of funds other than impact fees to pay for that development activity.

(2) An impact fee enactment that provides an impact fee exemption for development activity attributable to a school district or charter school shall allow either a school district or a charter school to qualify for the exemption on the same basis.

(3) An impact fee enactment that repeals or suspends the collection of impact fees is exempt from the notice requirements of Section 11-36a-504.

Enacted by Chapter 47, 2011 General Session

11-36a-501. Notice of intent to prepare an impact fee facilities plan.

(1) Before preparing or amending an impact fee facilities plan, a local political subdivision or private entity shall provide written notice of its intent to prepare or amend an impact fee facilities plan.

(2) A notice required under Subsection (1) shall:

(a) indicate that the local political subdivision or private entity intends to prepare or amend an impact fee facilities plan;

(b) describe or provide a map of the geographic area where the proposed impact fee facilities will be located; and

(c) subject to Subsection (3), be posted on the Utah Public Notice Website created under Section 63F-1-701.

(3) For a private entity required to post notice on the Utah Public Notice Website under Subsection (2)(c):

(a) the private entity shall give notice to the general purpose local government in which the private entity's private business office is located; and

(b) the general purpose local government described in Subsection (3)(a) shall post the notice on the Utah Public Notice Website.

Enacted by Chapter 47, 2011 General Session

11-36a-502. Notice to adopt or amend an impact fee facilities plan.

(1) If a local political subdivision chooses to prepare an independent impact fee facilities plan rather than include an impact fee facilities element in the general plan in accordance with Section 11-36a-301, the local political subdivision shall, before adopting or amending the impact fee facilities plan:

(a) give public notice, in accordance with Subsection (2), of the plan or amendment at least 10 days before the day on which the public hearing described in Subsection (1)(d) is scheduled;

(b) make a copy of the plan or amendment, together with a summary designed to be understood by a lay person, available to the public;

(c) place a copy of the plan or amendment and summary in each public library within the local political subdivision; and

(d) hold a public hearing to hear public comment on the plan or amendment.

(2) With respect to the public notice required under Subsection (1)(a):

(a) each municipality shall comply with the notice and hearing requirements of, and, except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Sections 10-9a-205 and 10-9a-801 and Subsection 10-9a-502(2);

(b) each county shall comply with the notice and hearing requirements of, and, except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Sections 17-27a-205 and 17-27a-801 and Subsection 17-27a-502(2); and

(c) each local district, special service district, and private entity shall comply with the notice and hearing requirements of, and receive the protections of, Section 17B-1-111.

(3) Nothing contained in this section or Section 11-36a-503 may be construed to require involvement by a planning commission in the impact fee facilities planning process.

Enacted by Chapter 47, 2011 General Session

11-36a-503. Notice of preparation of an impact fee analysis.

(1) Before preparing or contracting to prepare an impact fee analysis, each local political subdivision or, subject to Subsection (2), private entity shall post a public notice on the Utah Public Notice Website created under Section 63F-1-701.

(2) For a private entity required to post notice on the Utah Public Notice Website under Subsection (1):

(a) the private entity shall give notice to the general purpose local government in which the private entity's primary business is located; and

(b) the general purpose local government described in Subsection (2)(a) shall post the notice on the Utah Public Notice Website.

Enacted by Chapter 47, 2011 General Session

11-36a-504. Notice of intent to adopt impact fee enactment -- Hearing -- Protections.

(1) Before adopting an impact fee enactment:

(a) a municipality legislative body shall:

(i) comply with the notice requirements of Section 10-9a-205 as if the impact fee enactment were a land use ordinance;

(ii) hold a hearing in accordance with Section 10-9a-502 as if the impact fee enactment were a land use ordinance; and

(iii) except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Section 10-9a-801 as if the impact fee were a land use ordinance;

(b) a county legislative body shall:

(i) comply with the notice requirements of Section 17-27a-205 as if the impact fee enactment were a land use ordinance;

(ii) hold a hearing in accordance with Section 17-27a-502 as if the impact fee enactment were a land use ordinance; and

(iii) except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Section 17-27a-801 as if the impact fee were a land use ordinance;

(c) a local district or special service district shall:

(i) comply with the notice and hearing requirements of Section 17B-1-111; and

(ii) receive the protections of Section 17B-1-111;

(d) a local political subdivision shall at least 10 days before the day on which a public hearing is scheduled in accordance with this section:

(i) make a copy of the impact fee enactment available to the public; and

(ii) post notice of the local political subdivision's intent to enact or modify the impact fee, specifying the type of impact fee being enacted or modified, on the Utah Public Notice Website created under Section 63F-1-701; and

(e) a local political subdivision shall submit a copy of the impact fee analysis and a copy of the summary of the impact fee analysis prepared in accordance with Section 11-36a-303 on its website or to each public library within the local political subdivision.

(2) Subsection (1)(a) or (b) may not be construed to require involvement by a planning commission in the impact fee enactment process.

Enacted by Chapter 47, 2011 General Session

11-36a-601. Accounting of impact fees.

A local political subdivision that collects an impact fee shall:

(1) establish a separate interest bearing ledger account for each type of public facility for which an impact fee is collected;

(2) deposit a receipt for an impact fee in the appropriate ledger account established under Subsection (1);

(3) retain the interest earned on each fund or ledger account in the fund or ledger account;

(4) at the end of each fiscal year, prepare a report on each fund or ledger account showing:

(a) the source and amount of all money collected, earned, and received by the fund or ledger account; and

(b) each expenditure from the fund or ledger account; and

(5) produce a report that:

(a) identifies impact fee funds by the year in which they were received, the project from which the funds were collected, the impact fee projects for which the funds were budgeted, and the projected schedule for expenditure;

(b) is in a format developed by the state auditor;

(c) is certified by the local political subdivision's chief financial officer; and

(d) is transmitted annually to the state auditor.

Enacted by Chapter 47, 2011 General Session

11-36a-602. Expenditure of impact fees.

(1) A local political subdivision may expend impact fees only for a system improvement:

(a) identified in the impact fee facilities plan; and

(b) for the specific public facility type for which the fee was collected.

(2) (a) Except as provided in Subsection (2)(b), a local political subdivision shall expend or encumber the impact fees for a permissible use within six years of their receipt.

(b) A local political subdivision may hold the fees for longer than six years if it identifies, in writing:

(i) an extraordinary and compelling reason why the fees should be held longer than six years; and

(ii) an absolute date by which the fees will be expended.

Enacted by Chapter 47, 2011 General Session

11-36a-603. Refunds.

A local political subdivision shall refund any impact fee paid by a developer, plus interest earned, when:

(1) the developer does not proceed with the development activity and has filed a written request for a refund;

(2) the fee has not been spent or encumbered; and

(3) no impact has resulted.

Enacted by Chapter 47, 2011 General Session

11-36a-701. Impact fee challenge.

(1) A person or an entity residing in or owning property within a service area, or an organization, association, or a corporation representing the interests of persons or entities owning property within a service area, has standing to file a declaratory judgment action challenging the validity of an impact fee.

(2) (a) A person or an entity required to pay an impact fee who believes the impact fee does not meet the requirements of law may file a written request for information with the local political subdivision who established the impact fee.

(b) Within two weeks after the receipt of the request for information under Subsection (2)(a), the local political subdivision shall provide the person or entity with the impact fee analysis, the impact fee facilities plan, and any other relevant information relating to the impact fee.

(3) (a) Subject to the time limitations described in Section 11-36a-702 and procedures set forth in Section 11-36a-703, a person or an entity that has paid an impact fee that was imposed by a local political subdivision may challenge:

(i) if the impact fee enactment was adopted on or after July 1, 2000:

(A) subject to Subsection (3)(b)(i) and except as provided in Subsection (3)(b)(ii), whether the local political subdivision complied with the notice requirements of this chapter with respect to the imposition of the impact fee; and

(B) whether the local political subdivision complied with other procedural requirements of this chapter for imposing the impact fee; and

(ii) except as limited by Subsection (3)(c), the impact fee.

(b) (i) The sole remedy for a challenge under Subsection (3)(a)(i)(A) is the equitable remedy of requiring the local political subdivision to correct the defective notice and repeat the process.

(ii) The protections given to a municipality under Section 10-9a-801 and to a county under Section 17-27a-801 do not apply in a challenge under Subsection (3)(a)(i)(A).

(c) The sole remedy for a challenge under Subsection (3)(a)(ii) is a refund of the difference between what the person or entity paid as an impact fee and the amount the impact fee should have been if it had been correctly calculated.

(4) (a) Subject to Subsection (4)(d), if an impact fee that is the subject of an advisory opinion under Section 13-43-205 is listed as a cause of action in litigation, and that cause of action is litigated on the same facts and circumstances and is resolved consistent with the advisory opinion:

(i) the substantially prevailing party on that cause of action:

(A) may collect reasonable attorney fees and court costs pertaining to the development of that cause of action from the date of the delivery of the advisory opinion to the date of the court's resolution; and

(B) shall be refunded an impact fee held to be in violation of this chapter, based on the difference between the impact fee paid and what the impact fee should have been if the government entity had correctly calculated the impact fee; and

(ii) in accordance with Section 13-43-206, a government entity shall refund an

impact fee held to be in violation of this chapter to the person who was in record title of the property on the day on which the impact fee for the property was paid if:

(A) the impact fee was paid on or after the day on which the advisory opinion on the impact fee was issued but before the day on which the final court ruling on the impact fee is issued; and

(B) the person described in Subsection (3)(a)(ii) requests the impact fee refund from the government entity within 30 days after the day on which the court issued the final ruling on the impact fee.

(b) A government entity subject to Subsection (3)(a)(ii) shall refund the impact fee based on the difference between the impact fee paid and what the impact fee should have been if the government entity had correctly calculated the impact fee.

(c) Subsection (4) may not be construed to create a new cause of action under land use law.

(d) Subsection (3)(a) does not apply unless the resolution described in Subsection (3)(a) is final.

Enacted by Chapter 47, 2011 General Session

11-36a-702. Time limitations.

(1) A person or an entity that initiates a challenge under Subsection 11-36a-701(3)(a) may not initiate that challenge unless it is initiated within:

(a) for a challenge under Subsection 11-36a-701(3)(a)(i)(A), 30 days after the day on which the person or entity pays the impact fee;

(b) for a challenge under Subsection 11-36a-701(3)(a)(i)(B), 180 days after the day on which the person or entity pays the impact fee; or

(c) for a challenge under Subsection 11-36a-701(3)(a)(ii), one year after the day on which the person or entity pays the impact fee.

(2) The deadline to file an action in district court is tolled from the date that a challenge is filed using an administrative appeals procedure described in Section 11-36a-703 until 30 days after the day on which a final decision is rendered in the administrative appeals procedure.

Enacted by Chapter 47, 2011 General Session

11-36a-703. Procedures for challenging an impact fee.

(1) (a) A local political subdivision may establish, by ordinance or resolution, or a private entity may establish by prior written policy, an administrative appeals procedure to consider and decide a challenge to an impact fee.

(b) If the local political subdivision or private entity establishes an administrative appeals procedure, the local political subdivision shall ensure that the procedure includes a requirement that the local political subdivision make its decision no later than 30 days after the day on which the challenge to the impact fee is filed.

(2) A challenge under Subsection 11-36a-701(3)(a) is initiated by filing:

(a) if the local political subdivision or private entity has established an administrative appeals procedure under Subsection (1), the necessary document, under the administrative appeals procedure, for initiating the administrative appeal;

(b) a request for arbitration as provided in Section 11-36a-705; or

(c) an action in district court.

(3) The sole remedy for a successful challenge under Subsection 11-36a-701(1), which determines that an impact fee process was invalid, or an impact fee is in excess of the fee allowed under this act, is a declaration that, until the local political subdivision or private entity enacts a new impact fee study, from the date of the decision forward, the entity may charge an impact fee only as the court has determined would have been appropriate if it had been properly enacted.

(4) Subsections (2), (3), 11-36a-701(3), and 11-36a-702(1) may not be construed as requiring a person or an entity to exhaust administrative remedies with the local political subdivision before filing an action in district court under Subsections (2), (3), 11-36a-701(3), and 11-36a-702(1).

(5) The judge may award reasonable attorney fees and costs to the prevailing party in an action brought under this section.

(6) This chapter may not be construed as restricting or limiting any rights to challenge impact fees that were paid before the effective date of this chapter.

Amended by Chapter 200, 2013 General Session

11-36a-704. Mediation.

(1) In addition to the methods of challenging an impact fee under Section 11-36a-701, a specified public agency may require a local political subdivision or private entity to participate in mediation of any applicable impact fee.

(2) To require mediation, the specified public agency shall submit a written request for mediation to the local political subdivision or private entity.

(3) The specified public agency may submit a request for mediation under this section at any time, but no later than 30 days after the day on which an impact fee is paid.

(4) Upon the submission of a request for mediation under this section, the local political subdivision or private entity shall:

(a) cooperate with the specified public agency to select a mediator; and

(b) participate in the mediation process.

Enacted by Chapter 47, 2011 General Session

11-36a-705. Arbitration.

(1) A person or entity intending to challenge an impact fee under Section 11-36a-703 shall file a written request for arbitration with the local political subdivision within the time limitation described in Section 11-36a-702 for the applicable type of challenge.

(2) If a person or an entity files a written request for arbitration under Subsection (1), an arbitrator or arbitration panel shall be selected as follows:

(a) the local political subdivision and the person or entity filing the request may agree on a single arbitrator within 10 days after the day on which the request for arbitration is filed; or

(b) if a single arbitrator is not agreed to in accordance with Subsection (2)(a), an

arbitration panel shall be created with the following members:

(i) each party shall select an arbitrator within 20 days after the date the request is filed; and

(ii) the arbitrators selected under Subsection (2)(b)(i) shall select a third arbitrator.

(3) The arbitration panel shall hold a hearing on the challenge no later than 30 days after the day on which:

(a) the single arbitrator is agreed on under Subsection (2)(a); or

(b) the two arbitrators are selected under Subsection (2)(b)(i).

(4) The arbitrator or arbitration panel shall issue a decision in writing no later than 10 days after the day on which the hearing described in Subsection (3) is completed.

(5) Except as provided in this section, each arbitration shall be governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(6) The parties may agree to:

(a) binding arbitration;

(b) formal, nonbinding arbitration; or

(c) informal, nonbinding arbitration.

(7) If the parties agree in writing to binding arbitration:

(a) the arbitration shall be binding;

(b) the decision of the arbitration panel shall be final;

(c) neither party may appeal the decision of the arbitration panel; and

(d) notwithstanding Subsection (10), the person or entity challenging the impact fee may not also challenge the impact fee under Subsection 11-36a-701(1) or Subsection 11-36a-703(2)(a) or (2)(c).

(8) (a) Except as provided in Subsection (8)(b), if the parties agree to formal, nonbinding arbitration, the arbitration shall be governed by the provisions of Title 63G, Chapter 4, Administrative Procedures Act.

(b) For purposes of applying Title 63G, Chapter 4, Administrative Procedures Act, to a formal, nonbinding arbitration under this section, notwithstanding Section 63G-4-502, "agency" means a local political subdivision.

(9) (a) An appeal from a decision in an informal, nonbinding arbitration may be filed with the district court in which the local political subdivision is located.

(b) An appeal under Subsection (9)(a) shall be filed within 30 days after the day on which the arbitration panel issues a decision under Subsection (4).

(c) The district court shall consider de novo each appeal filed under this Subsection (9).

(d) Notwithstanding Subsection (10), a person or entity that files an appeal under this Subsection (9) may not also challenge the impact fee under Subsection 11-36a-701(1) or Subsection 11-36a-703(2)(a) or (2)(c).

(10) (a) Except as provided in Subsections (7)(d) and (9)(d), this section may not be construed to prohibit a person or entity from challenging an impact fee as provided in Subsection 11-36a-701(1) or Subsection 11-36a-703(2)(a) or (2)(c).

(b) The filing of a written request for arbitration within the required time in accordance with Subsection (1) tolls all time limitations under Section 11-36a-702 until the day on which the arbitration panel issues a decision.

(11) The person or entity filing a request for arbitration and the local political subdivision shall equally share all costs of an arbitration proceeding under this section.

Enacted by Chapter 47, 2011 General Session

11-38-101. Title.

This chapter is known as the "Quality Growth Act."

Enacted by Chapter 24, 1999 General Session

11-38-102. Definitions.

As used in this chapter:

(1) "Affordable housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income of the applicable municipal or county statistical area for households of the same size.

(2) "Agricultural land" has the same meaning as "land in agricultural use" under Section 59-2-502.

(3) "Brownfield sites" means abandoned, idled, or underused commercial or industrial land where expansion or redevelopment is complicated by real or perceived environmental contamination.

(4) "Commission" means the Quality Growth Commission established in Section 11-38-201.

(5) "Infill development" means residential, commercial, or industrial development on unused or underused land, excluding open land and agricultural land, within existing, otherwise developed urban areas.

(6) "Local entity" means a county, city, or town.

(7) (a) "Open land" means land that is:

(i) preserved in or restored to a predominantly natural, open, and undeveloped condition; and

(ii) used for:

(A) wildlife habitat;

(B) cultural or recreational use;

(C) watershed protection; or

(D) another use consistent with the preservation of the land in or restoration of the land to a predominantly natural, open, and undeveloped condition.

(b) (i) "Open land" does not include land whose predominant use is as a developed facility for active recreational activities, including baseball, tennis, soccer, golf, or other sporting or similar activity.

(ii) The condition of land does not change from a natural, open, and undeveloped condition because of the development or presence on the land of facilities, including trails, waterways, and grassy areas, that:

(A) enhance the natural, scenic, or aesthetic qualities of the land; or

(B) facilitate the public's access to or use of the land for the enjoyment of its natural, scenic, or aesthetic qualities and for compatible recreational activities.

(8) "Program" means the LeRay McAllister Critical Land Conservation Program

established in Section 11-38-301.

(9) "Surplus land" means real property owned by the Department of Administrative Services, the Department of Agriculture and Food, the Department of Natural Resources, or the Department of Transportation that the individual department determines not to be necessary for carrying out the mission of the department.

Amended by Chapter 310, 2013 General Session

11-38-201. Quality Growth Commission -- Term of office -- Vacancy -- Organization -- Expenses -- Staff.

(1) (a) There is created a Quality Growth Commission consisting of:

(i) the director of the Department of Natural Resources;

(ii) the commissioner of the Department of Agriculture and Food;

(iii) six elected officials at the local government level, three of whom may not be residents of a county of the first or second class; and

(iv) five persons from the profit and nonprofit private sector, two of whom may not be residents of a county of the first or second class and no more than three of whom may be from the same political party and one of whom shall be from the residential construction industry, nominated by the Utah Home Builders Association, and one of whom shall be from the real estate industry, nominated by the Utah Association of Realtors.

(b) (i) The director of the Department of Natural Resources and the commissioner of the Department of Agriculture and Food may not assume their positions on the commission until:

(A) after May 1, 2005; and

(B) the term of the respective predecessor in office, who is a state government level appointee, expires.

(ii) The term of a commission member serving on May 1, 2005 as one of the six elected local officials or five private sector appointees may not be shortened because of application of the restriction under Subsections (1)(a)(iii) and (iv) on the number of appointees from counties of the first or second class.

(2) (a) Each commission member appointed under Subsection (1)(a)(iii) or (iv) shall be appointed by the governor with the consent of the Senate.

(b) The governor shall select three of the six members under Subsection (1)(a)(iii) from a list of names provided by the Utah League of Cities and Towns, and shall select the remaining three from a list of names provided by the Utah Association of Counties.

(c) Two of the persons appointed under Subsection (1) shall be from the agricultural community from a list of names provided by Utah farm organizations.

(3) (a) The term of office of each member is four years, except that the governor shall appoint one of the persons at the state government level, three of the persons at the local government level, and two of the persons under Subsection (1)(a)(iv) to an initial two-year term.

(b) No member of the commission may serve more than two consecutive four-year terms.

(4) Each mid-term vacancy shall be filled for the unexpired term in the same

manner as an appointment under Subsection (2).

(5) Commission members shall elect a chair from their number and establish rules for the organization and operation of the commission.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) A member is not required to give bond for the performance of official duties.

(8) Staff services to the commission:

(a) shall be provided by the Governor's Office of Management and Budget; and

(b) may be provided by local entities through the Utah Association of Counties and the Utah League of Cities and Towns, with funds approved by the commission from those identified as available to local entities under Subsection 11-38-203(1)(a).

Amended by Chapter 310, 2013 General Session

11-38-202. Commission duties and powers -- No regulatory authority.

(1) The commission shall:

(a) make recommendations to the Legislature on how to define more specifically quality growth areas within the general guidelines provided to the commission by the Legislature;

(b) advise the Legislature on growth management issues;

(c) make recommendations to the Legislature on refinements to this chapter;

(d) conduct a review in 2002 and each year thereafter to determine progress statewide on accomplishing the purposes of this chapter, and give a report of each review to the Political Subdivisions Interim Committee of the Legislature by November 30 of the year of the review;

(e) administer the program as provided in this chapter;

(f) assist as many local entities as possible, at their request, to identify principles of growth that the local entity may consider implementing to help achieve the highest possible quality of growth for that entity;

(g) fulfill other responsibilities imposed on the commission by the Legislature; and

(h) fulfill all other duties imposed on the commission by this chapter.

(2) The commission may sell, lease, or otherwise dispose of equipment or personal property belonging to the program, the proceeds from which shall return to the fund.

(3) The commission may not exercise any regulatory authority.

Amended by Chapter 368, 2009 General Session

11-38-203. Commission may provide assistance to local entities.

The commission may:

(1) from funds appropriated to the Governor's Office of Management and

Budget by the Legislature for this purpose, grant money to local entities to help them obtain the technical assistance they need to:

(a) conduct workshops or public hearings or use other similar methods to obtain public input and participation in the process of identifying for that entity the principles of quality growth referred to in Subsection 11-38-202(1)(f);

(b) identify where and how quality growth areas could be established within the local entity; and

(c) develop or modify the local entity's general plan to incorporate and implement the principles of quality growth developed by the local entity and to establish quality growth areas; and

(2) require each local entity to which the commission grants money under Subsection (1) to report to the commission, in a format and upon a timetable determined by the commission, on that local entity's process of developing quality growth principles and on the quality growth principles developed by that local entity.

Amended by Chapter 310, 2013 General Session

11-38-301. LeRay McAllister Critical Land Conservation Program.

(1) There is created a program entitled the "LeRay McAllister Critical Land Conservation Program."

(2) Funding for the program shall be a line item in the budget of the Quality Growth Commission. The line item shall be nonlapsing.

Amended by Chapter 368, 2009 General Session

11-38-302. Use of money in program -- Criteria -- Administration.

(1) Subject to Subsection (2), the commission may authorize the use of money in the program, by grant, to:

(a) a local entity;

(b) the Department of Natural Resources created under Section 79-2-201;

(c) the Department of Agriculture and Food created under Section 4-2-1; or

(d) a charitable organization that qualifies as being tax exempt under Section 501(c)(3) of the Internal Revenue Code.

(2) (a) The money in the program shall be used for preserving or restoring open land and agricultural land.

(b) (i) Except as provided in Subsection (2)(b)(ii), money from the program may not be used to purchase a fee interest in real property in order to preserve open land or agricultural land, but may be used to establish a conservation easement under Title 57, Chapter 18, Land Conservation Easement Act, or to fund similar methods to preserve open land or agricultural land.

(ii) Notwithstanding Subsection (2)(b)(i), money from the fund may be used to purchase a fee interest in real property to preserve open land or agricultural land if:

(A) the parcel to be purchased is no more than 20 acres in size; and

(B) with respect to a parcel purchased in a county in which over 50% of the land area is publicly owned, real property roughly equivalent in size and located within that county is contemporaneously transferred to private ownership from the governmental

entity that purchased the fee interest in real property.

(iii) Eminent domain may not be used or threatened in connection with any purchase using money from the program.

(iv) A parcel of land larger than 20 acres in size may not be divided into separate parcels smaller than 20 acres each to meet the requirement of Subsection (2)(b)(ii).

(c) A local entity, department, or organization under Subsection (1) may not receive money from the program unless it provides matching funds equal to or greater than the amount of money received from the program.

(d) In granting money from the program, the commission may impose conditions on the recipient as to how the money is to be spent.

(e) The commission shall give priority to requests from the Department of Natural Resources for up to 20% of each annual increase in the amount of money in the program if the money is used for the protection of wildlife or watershed.

(f) (i) The commission may not make a grant from the program that exceeds $1,000,000 until after making a report to the Legislative Management Committee about the grant.

(ii) The Legislative Management Committee may make a recommendation to the commission concerning the intended grant, but the recommendation is not binding on the commission.

(3) In determining the amount and type of financial assistance to provide an entity, department, or organization under Subsection (1) and subject to Subsection (2)(f), the commission shall consider:

(a) the nature and amount of open land and agricultural land proposed to be preserved or restored;

(b) the qualities of the open land and agricultural land proposed to be preserved or restored;

(c) the cost effectiveness of the project to preserve or restore open land or agricultural land;

(d) the funds available;

(e) the number of actual and potential applications for financial assistance and the amount of money sought by those applications;

(f) the open land preservation plan of the local entity where the project is located and the priority placed on the project by that local entity;

(g) the effects on housing affordability and diversity; and

(h) whether the project protects against the loss of private property ownership.

(4) If a local entity, department, or organization under Subsection (1) seeks money from the program for a project whose purpose is to protect critical watershed, the commission shall require that the needs and quality of that project be verified by the state engineer.

(5) Each interest in real property purchased with money from the program shall be held and administered by the state or a local entity.

Amended by Chapter 344, 2009 General Session
Amended by Chapter 368, 2009 General Session

11-38-304. Commission to report annually.

The commission shall submit an annual report to the Executive Offices and Criminal Justice Appropriations Subcommittee:

(1) specifying the amount of each disbursement from the program;

(2) identifying the recipient of each disbursement and describing the project for which money was disbursed; and

(3) detailing the conditions, if any, placed by the commission on disbursements from the program.

Amended by Chapter 323, 2010 General Session

11-39-101. Definitions.

As used in this chapter:

(1) "Bid limit" means:

(a) for a building improvement:

(i) for the year 2003, $40,000; and

(ii) for each year after 2003, the amount of the bid limit for the previous year, plus an amount calculated by multiplying the amount of the bid limit for the previous year by the lesser of 3% or the actual percent change in the Consumer Price Index during the previous calendar year; and

(b) for a public works project:

(i) for the year 2003, $125,000; and

(ii) for each year after 2003, the amount of the bid limit for the previous year, plus an amount calculated by multiplying the amount of the bid limit for the previous year by the lesser of 3% or the actual percent change in the Consumer Price Index during the previous calendar year.

(2) "Building improvement":

(a) means the construction or repair of a public building or structure; and

(b) does not include construction or repair at an international airport.

(3) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.

(4) "Design-build project":

(a) means a building improvement or public works project costing over $250,000 with respect to which both the design and construction are provided for in a single contract with a contractor or combination of contractors capable of providing design-build services; and

(b) does not include a building improvement or public works project:

(i) that is undertaken by a local entity under contract with a construction manager that guarantees the contract price and is at risk for any amount over the contract price; and

(ii) each component of which is competitively bid.

(5) "Design-build services" means the engineering, architectural, and other services necessary to formulate and implement a design-build project, including its actual construction.

(6) "Emergency repairs" means a building improvement or public works project

undertaken on an expedited basis to:

(a) eliminate an imminent risk of damage to or loss of public or private property;

(b) remedy a condition that poses an immediate physical danger; or

(c) reduce a substantial, imminent risk of interruption of an essential public service.

(7) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a local district, the board of trustees of the local district; and

(c) for a special service district:

(i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(ii) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301.

(8) "Local district" has the same meaning as defined in Section 17B-1-102.

(9) "Local entity" means a county, city, town, local district, or special service district.

(10) "Lowest responsive responsible bidder" means a prime contractor who:

(a) has submitted a bid in compliance with the invitation to bid and within the requirements of the plans and specifications for the building improvement or public works project;

(b) is the lowest bidder that satisfies the local entity's criteria relating to financial strength, past performance, integrity, reliability, and other factors that the local entity uses to assess the ability of a bidder to perform fully and in good faith the contract requirements;

(c) has furnished a bid bond or equivalent in money as a condition to the award of a prime contract; and

(d) furnishes a payment and performance bond as required by law.

(11) "Procurement code" means the provisions of Title 63G, Chapter 6a, Utah Procurement Code.

(12) "Public works project":

(a) means the construction of:

(i) a park or recreational facility; or

(ii) a pipeline, culvert, dam, canal, or other system for water, sewage, storm water, or flood control; and

(b) does not include:

(i) the replacement or repair of existing infrastructure on private property;

(ii) construction commenced before June 1, 2003; and

(iii) construction or repair at an international airport.

(13) "Special service district" has the same meaning as defined in Section 17D-1-102.

Amended by Chapter 347, 2012 General Session

11-39-102. Requirement for plans and specifications and cost estimate.

Each local entity intending to undertake a building improvement or public works

project paid for by the local entity shall cause:

(1) plans and specifications to be made for the building improvement or public works project; and

(2) an estimate of the cost of the building improvement or public works project to be made.

Enacted by Chapter 259, 2003 General Session

11-39-103. Requirements for undertaking a building improvement or public works project -- Request for bids -- Authority to reject bids.

(1) If the estimated cost of the building improvement or public works project exceeds the bid limit, the local entity shall, if it determines to proceed with the building improvement or public works project:

(a) request bids for completion of the building improvement or public works project by:

(i) (A) publishing notice at least twice in a newspaper published or of general circulation in the local entity at least five days before opening the bids; or

(B) if there is no newspaper published or of general circulation in the local entity as described in Subsection (1)(a)(i)(A), posting notice at least five days before opening the bids in at least five public places in the local entity and leaving the notice posted for at least three days; and

(ii) publishing notice in accordance with Section 45-1-101, at least five days before opening the bids; and

(b) except as provided in Subsection (3), enter into a contract for the completion of the building improvement or public works project with:

(i) the lowest responsive responsible bidder; or

(ii) for a design-build project formulated by a local entity, except as provided in Section 11-39-107, a responsible bidder that:

(A) offers design-build services; and

(B) satisfies the local entity's criteria relating to financial strength, past performance, integrity, reliability, and other factors that the local entity uses to assess the ability of a bidder to perform fully and in good faith the contract requirements for a design-build project.

(2) (a) Each notice under Subsection (1)(a) shall indicate that the local entity may reject any or all bids submitted.

(b) (i) The cost of a building improvement or public works project may not be divided to avoid:

(A) exceeding the bid limit; and

(B) subjecting the local entity to the requirements of this section.

(ii) Notwithstanding Subsection (2)(b)(i), a local entity may divide the cost of a building improvement or public works project that would, without dividing, exceed the bid limit if the local entity complies with the requirements of this section with respect to each part of the building improvement or public works project that results from dividing the cost.

(3) (a) The local entity may reject any or all bids submitted.

(b) If the local entity rejects all bids submitted but still intends to undertake the

building improvement or public works project, the local entity shall again request bids by following the procedure provided in Subsection (1)(a).

(c) If, after twice requesting bids by following the procedure provided in Subsection (1)(a), the local entity determines that no satisfactory bid has been submitted, the governing body may undertake the building improvement or public works project as it considers appropriate.

Amended by Chapter 387, 2011 General Session

11-39-104. Exceptions.

(1) The requirements of Section 11-39-103 do not apply to:

(a) emergency repairs;

(b) a building improvement or public works project if the estimated cost under Section 11-39-102 is less than the bid limit; or

(c) the conduct or management of any of the departments, business, or property of the local entity.

(2) This section may not be construed to limit the application of Section 72-6-108 to an improvement project, as defined in Section 72-6-109, that would otherwise be subject to Section 72-6-108.

(3) This part applies to a building improvement or public works project of a special service district only to the extent that the contract for the building improvement or public works project is in a class of contract designated under Section 17D-1-107 as subject to this part.

Amended by Chapter 360, 2008 General Session

11-39-105. Retained payments.

Each payment that the local entity retains on a contract with a private person, firm, or corporation shall be retained and released as provided in Section 13-8-5.

Enacted by Chapter 259, 2003 General Session

11-39-106. Attorney's fees and costs in civil action.

In a civil action to enforce the provisions of this part against a local entity, the court may award attorney's fees and costs to the prevailing party.

Enacted by Chapter 259, 2003 General Session

11-39-107. Procurement code.

(1) This chapter may not be construed to:

(a) prohibit a county or municipal legislative body from adopting the procedures of the procurement code; or

(b) limit the application of the procurement code to a local district or special service district.

(2) A local entity may adopt procedures for the following construction contracting methods:

(a) construction manager/general contractor, as defined in Section 63G-6a-103; or

(b) a method that requires that the local entity draft a plan, specifications, and an estimate for the building improvement or public works project.

(3) For a public works project only and that costs $1,000,000 or more, in consultation with a professional engineer licensed under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act, who has design-build experience and is employed by or is under contract with the owner, the following may enter into a contract for design-build, as defined in Section 63G-6a-103, and adopt the procedures and follow the provisions of the procurement code for the procurement of and as the procedures and provisions relate to a design-build:

(a) a city of the first class;

(b) a local district; or

(c) a special service district.

(4) (a) In seeking bids and awarding a contract for a building improvement or public works project, a county or a municipal legislative body may elect to follow the provisions of the procurement code, as the county or municipal legislative body considers appropriate under the circumstances, for specification preparation, source selection, or contract formation.

(b) A county or municipal legislative body's election to adopt the procedures of the procurement code may not excuse the county or municipality, respectively, from complying with the requirements to award a contract for work in excess of the bid limit and to publish notice of the intent to award.

(c) An election under Subsection (4)(a) may be made on a case-by-case basis, unless the county or municipality has previously adopted the provisions of Title 63G, Chapter 6a, Utah Procurement Code.

(d) The county or municipal legislative body shall:

(i) make each election under Subsection (4)(a) in an open meeting; and

(ii) specify in its action the portions of the procurement code to be followed.

(5) If the estimated cost of the building improvement or public works project proposed by a local district or special service district exceeds the bid limit, the governing body of the local district or special service district may, if it determines to proceed with the building improvement or public works project, use the competitive procurement procedures of the procurement code in place of the comparable provisions of this chapter.

Amended by Chapter 448, 2013 General Session

11-40-101. Definitions.

As used in this chapter:

(1) "Applicant" means a person who seeks employment with a public water utility, either as an employee or as an independent contractor, and who, after employment, would, in the judgment of the public water utility, be in a position to affect the safety or security of the publicly owned treatment works or public water system or to affect the safety or well-being of patrons of the public water utility.

(2) "Division" means the Criminal Investigation and Technical Services Division

of the Department of Public Safety, established in Section 53-10-103.

(3) "Independent contractor":

(a) means an engineer, contractor, consultant, or supplier who designs, constructs, operates, maintains, repairs, replaces, or provides water treatment or conveyance facilities or equipment, or related control or security facilities or equipment, to the public water utility; and

(b) includes the employees and agents of the engineer, contractor, consultant, or supplier.

(4) "Person seeking access" means a person who seeks access to a public water utility's public water system or publicly owned treatment works and who, after obtaining access, would, in the judgment of the public water utility, be in a position to affect the safety or security of the publicly owned treatment works or public water system or to affect the safety or well-being of patrons of the public water utility.

(5) "Publicly owned treatment works" has the same meaning as defined in Section 19-5-102.

(6) "Public water system" has the same meaning as defined in Section 19-4-102.

(7) "Public water utility" means a county, city, town, local district under Title 17B, Chapter 1, Provisions Applicable to All Local Districts, special service district under Title 17D, Chapter 1, Special Service District Act, or other political subdivision of the state that operates publicly owned treatment works or a public water system.

Amended by Chapter 360, 2008 General Session

11-40-102. Criminal background check authorized -- Written notice required.

(1) A public water utility may:

(a) require an applicant to submit to a criminal background check as a condition of employment;

(b) periodically require existing employees of the public water utility to submit to a criminal background check if, in the judgment of the public water utility, the employee is in a position to affect the safety or security of the publicly owned treatment works or public water system or to affect the safety or well-being of patrons of the public water utility; and

(c) require a person seeking access to submit to a criminal background check as a condition of acquiring access.

(2) (a) Each applicant, person seeking access, and existing employee described in Subsection (1)(b) shall, if required by the public water utility:

(i) submit a fingerprint card in a form acceptable to the division; and

(ii) consent to a fingerprint background check by:

(A) the Utah Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(b) If requested by a public water utility, the division shall request the Department of Public Safety to complete a Federal Bureau of Investigation criminal background check for each applicant, person seeking access, or existing employee through a national criminal history system.

(c) (i) A public water utility may make an applicant's employment with the public water utility or the access of a person seeking access conditional pending completion of a criminal background check under this section.

(ii) If a criminal background check discloses that an applicant or a person seeking access failed to disclose accurately a criminal history, the public water utility may deny or, if conditionally given, immediately terminate the applicant's employment or the person's access.

(iii) If an applicant or person seeking access accurately disclosed the relevant criminal history and the criminal background check discloses that the applicant or person seeking access has been convicted of a crime that indicates a potential risk for the safety of the public water utility's public water system or publicly owned treatment works or for the safety or well-being of patrons of the public water utility, the public water utility may deny or, if conditionally given, immediately terminate the applicant's employment or the person's access.

(3) Each public water utility that requests a criminal background check under Subsection (1) shall prepare criteria for which criminal activity will preclude employment and shall provide written notice to the person who is the subject of the criminal background check that the background check has been requested.

Amended by Chapter 90, 2004 General Session

11-40-103. Duties of the Criminal Investigation and Technical Services Division -- Costs of separate file and background check.

(1) If a public water utility requests the division to conduct a criminal background check, the division shall:

(a) release to the public water utility the full record of criminal convictions for the person who is the subject of the background check;

(b) if requested by the public water utility, seek additional information from regional or national criminal data files in conducting the criminal background check;

(c) maintain a separate file of fingerprints submitted under Section 11-40-102; and

(d) notify the requesting public water utility when a new entry is made against a person whose fingerprints are held in the file.

(2) (a) Each public water utility requesting a criminal background check shall pay the cost of maintaining the separate file under Subsection (1) from fees charged to those whose fingerprints are submitted to the division.

(b) Each public water utility requesting the division to conduct a criminal background check shall pay the cost of the background check, and the money collected shall be credited to the division to offset its expenses.

Enacted by Chapter 39, 2003 General Session

11-40-104. Written notice to person whose employment is denied or terminated -- Right to respond and seek review.

If a public water utility denies or terminates the employment of a person because of information obtained through a criminal background check under this chapter, the

public water utility shall:

(1) notify the person in writing of the reasons for the denial or termination; and

(2) give the person an opportunity to respond to the reasons and to seek review of the denial or termination through administrative procedures established by the public water utility.

Enacted by Chapter 39, 2003 General Session

11-41-101. Title.

This chapter is known as the "Prohibition on Sales and Use Tax Incentive Payments Act."

Enacted by Chapter 283, 2004 General Session

11-41-102. Definitions.

As used in this chapter:

(1) "Agreement" means an oral or written agreement between a:

(a) (i) county; or

(ii) municipality; and

(b) person.

(2) "Municipality" means a:

(a) city; or

(b) town.

(3) "Payment" includes:

(a) a payment;

(b) a rebate;

(c) a refund; or

(d) an amount similar to Subsections (3)(a) through (c).

(4) "Regional retail business" means a:

(a) retail business that occupies a floor area of more than 80,000 square feet;

(b) dealer as defined in Section 41-1a-102;

(c) retail shopping facility that has at least two anchor tenants if the total number of anchor tenants in the shopping facility occupy a total floor area of more than 150,000 square feet; or

(d) grocery store that occupies a floor area of more than 30,000 square feet.

(5) (a) "Sales and use tax" means a tax:

(i) imposed on transactions within a:

(A) county; or

(B) municipality; and

(ii) except as provided in Subsection (5)(b), authorized under Title 59, Chapter 12, Sales and Use Tax Act.

(b) Notwithstanding Subsection (5)(a)(ii), "sales and use tax" does not include a tax authorized under:

(i) Subsection 59-12-103(2)(a)(i);

(ii) Subsection 59-12-103(2)(b)(i);

(iii) Subsection 59-12-103(2)(c)(i);

(iv) Subsection 59-12-103(2)(d)(i)(A);
(v) Section 59-12-301;
(vi) Section 59-12-352;
(vii) Section 59-12-353;
(viii) Section 59-12-603; or
(ix) Section 59-12-1201.
(6) (a) "Sales and use tax incentive payment" means a payment of revenues:
(i) to a person;
(ii) by a:
(A) county; or
(B) municipality;
(iii) to induce the person to locate or relocate a regional retail business within the:
(A) county; or
(B) municipality; and
(iv) that are derived from a sales and use tax.
(b) "Sales and use tax incentive payment" does not include funding for public infrastructure.

Amended by Chapter 286, 2008 General Session
Amended by Chapter 384, 2008 General Session

11-41-103. Prohibition on a county or municipality making a sales and use tax incentive payment or entering into an agreement to make a sales and use tax incentive payment.

A county or municipality may not:
(1) make a sales and use tax incentive payment under an agreement entered into on or after July 1, 2004; or
(2) enter into an agreement on or after July 1, 2004 to make a sales and use tax incentive payment.

Enacted by Chapter 283, 2004 General Session

11-42-101. Title.

This chapter is known as the "Assessment Area Act."

Enacted by Chapter 329, 2007 General Session

11-42-102. Definitions.

(1) "Adequate protests" means timely filed, written protests under Section 11-42-203 that represent at least 50% of the frontage, area, taxable value, fair market value, lots, number of connections, or equivalent residential units of the property proposed to be assessed, according to the same assessment method by which the assessment is proposed to be levied, after eliminating:
(a) protests relating to:
(i) property that has been deleted from a proposed assessment area; or

(ii) an improvement that has been deleted from the proposed improvements to be provided to property within the proposed assessment area; and

(b) protests that have been withdrawn under Subsection 11-42-203(3).

(2) "Assessment area" means an area, or, if more than one area is designated, the aggregate of all areas within a local entity's jurisdictional boundaries that is designated by a local entity under Part 2, Designating an Assessment Area, for the purpose of financing the costs of improvements, operation and maintenance, or economic promotion activities that benefit property within the area.

(3) "Assessment bonds" means bonds that are:

(a) issued under Section 11-42-605; and

(b) payable in part or in whole from assessments levied in an assessment area, improvement revenues, and a guaranty fund or reserve fund.

(4) "Assessment fund" means a special fund that a local entity establishes under Section 11-42-412.

(5) "Assessment lien" means a lien on property within an assessment area that arises from the levy of an assessment, as provided in Section 11-42-501.

(6) "Assessment method" means the method by which an assessment is levied against property, whether by frontage, area, taxable value, fair market value, lot, parcel, number of connections, equivalent residential unit, any combination of these methods, or any other method that equitably reflects the benefit received from the improvement.

(7) "Assessment ordinance" means an ordinance adopted by a local entity under Section 11-42-404 that levies an assessment on benefitted property within an assessment area.

(8) "Assessment resolution" means a resolution adopted by a local entity under Section 11-42-404 that levies an assessment on benefitted property within an assessment area.

(9) "Benefitted property" means property within an assessment area that directly or indirectly benefits from improvements, operation and maintenance, or economic promotion activities.

(10) "Bond anticipation notes" means notes issued under Section 11-42-602 in anticipation of the issuance of assessment bonds.

(11) "Bonds" means assessment bonds and refunding assessment bonds.

(12) "Commercial area" means an area in which at least 75% of the property is devoted to the interchange of goods or commodities.

(13) (a) "Commercial or industrial real property" means real property used directly or indirectly or held for one of the following purposes or activities, regardless of whether the purpose or activity is for profit:

(i) commercial;

(ii) mining;

(iii) industrial;

(iv) manufacturing;

(v) governmental;

(vi) trade;

(vii) professional;

(viii) a private or public club;

(ix) a lodge;

(x) a business; or

(xi) a similar purpose.

(b) "Commercial or industrial real property" includes real property that:

(i) is used as or held for dwelling purposes; and

(ii) contains four or more rental units.

(14) "Connection fee" means a fee charged by a local entity to pay for the costs of connecting property to a publicly owned sewer, storm drainage, water, gas, communications, or electrical system, whether or not improvements are installed on the property.

(15) "Contract price" means:

(a) the cost of acquiring an improvement, if the improvement is acquired; or

(b) the amount payable to one or more contractors for the design, engineering, inspection, and construction of an improvement.

(16) "Designation ordinance" means an ordinance adopted by a local entity under Section 11-42-206 designating an assessment area.

(17) "Designation resolution" means a resolution adopted by a local entity under Section 11-42-206 designating an assessment area.

(18) "Economic promotion activities" means activities that promote economic growth in a commercial area of a local entity, including:

(a) sponsoring festivals and markets;

(b) promoting business investment or activities;

(c) helping to coordinate public and private actions; and

(d) developing and issuing publications designed to improve the economic well-being of the commercial area.

(19) "Energy efficiency upgrade" means an improvement that is permanently affixed to commercial or industrial real property that is designed to reduce energy consumption, including:

(a) insulation in:

(i) a wall, roof, floor, or foundation; or

(ii) a heating and cooling distribution system;

(b) a window or door, including:

(i) a storm window or door;

(ii) a multiglazed window or door;

(iii) a heat-absorbing window or door;

(iv) a heat-reflective glazed and coated window or door;

(v) additional window or door glazing;

(vi) a window or door with reduced glass area; or

(vii) other window or door modifications;

(c) an automatic energy control system;

(d) in a building or a central plant, a heating, ventilation, or air conditioning and distribution system;

(e) caulk or weatherstripping;

(f) a light fixture that does not increase the overall illumination of a building unless an increase is necessary to conform with the applicable building code;

(g) an energy recovery system;

(h) a daylighting system;

(i) measures to reduce the consumption of water, through conservation or more efficient use of water, including:

(i) installation of low-flow toilets and showerheads;

(ii) installation of timer or timing systems for a hot water heater; or

(iii) installation of rain catchment systems; or

(j) a modified, installed, or remodeled fixture that is approved as a utility cost-saving measure by the governing body of a local entity.

(20) "Equivalent residential unit" means a dwelling, unit, or development that is equal to a single-family residence in terms of the nature of its use or impact on an improvement to be provided in the assessment area.

(21) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a local district, the board of trustees of the local district;

(c) for a special service district:

(i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(ii) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301; and

(d) for the military installation development authority created in Section 63H-1-201, the authority board, as defined in Section 63H-1-102.

(22) "Guaranty fund" means the fund established by a local entity under Section 11-42-701.

(23) "Improved property" means property proposed to be assessed within an assessment area upon which a residential, commercial, or other building has been built.

(24) "Improvement":

(a) (i) means a publicly owned infrastructure, system, or other facility, a publicly or privately owned energy efficiency upgrade, or a publicly or privately owned renewable energy system that:

(A) a local entity is authorized to provide;

(B) the governing body of a local entity determines is necessary or convenient to enable the local entity to provide a service that the local entity is authorized to provide; or

(C) a local entity is requested to provide through an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act; and

(ii) includes facilities in an assessment area, including a private driveway, an irrigation ditch, and a water turnout, that:

(A) can be conveniently installed at the same time as an infrastructure, system, or other facility described in Subsection (24)(a)(i); and

(B) are requested by a property owner on whose property or for whose benefit the infrastructure, system, or other facility is being installed; or

(b) for a local district created to assess groundwater rights in accordance with Section 17B-1-202, means a system or plan to regulate groundwater withdrawals within a specific groundwater basin in accordance with Sections 17B-1-202 and 73-5-15.

(25) "Improvement revenues":

(a) means charges, fees, impact fees, or other revenues that a local entity

receives from improvements; and

(b) does not include revenue from assessments.

(26) "Incidental refunding costs" means any costs of issuing refunding assessment bonds and calling, retiring, or paying prior bonds, including:

(a) legal and accounting fees;

(b) charges of financial advisors, escrow agents, certified public accountant verification entities, and trustees;

(c) underwriting discount costs, printing costs, the costs of giving notice;

(d) any premium necessary in the calling or retiring of prior bonds;

(e) fees to be paid to the local entity to issue the refunding assessment bonds and to refund the outstanding prior bonds;

(f) any other costs that the governing body determines are necessary or desirable to incur in connection with the issuance of refunding assessment bonds; and

(g) any interest on the prior bonds that is required to be paid in connection with the issuance of the refunding assessment bonds.

(27) "Installment payment date" means the date on which an installment payment of an assessment is payable.

(28) "Interim warrant" means a warrant issued by a local entity under Section 11-42-601.

(29) "Jurisdictional boundaries" means:

(a) for a county, the boundaries of the unincorporated area of the county; and

(b) for each other local entity, the boundaries of the local entity.

(30) "Local district" means a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts.

(31) "Local entity" means a county, city, town, special service district, local district, an interlocal entity as defined in Section 11-13-103, a military installation development authority created in Section 63H-1-201, or other political subdivision of the state.

(32) "Local entity obligations" means assessment bonds, refunding assessment bonds, interim warrants, and bond anticipation notes issued by a local entity.

(33) "Mailing address" means:

(a) a property owner's last-known address using the name and address appearing on the last completed real property assessment roll of the county in which the property is located; and

(b) if the property is improved property:

(i) the property's street number; or

(ii) the post office box, rural route number, or other mailing address of the property, if a street number has not been assigned.

(34) "Net improvement revenues" means all improvement revenues that a local entity has received since the last installment payment date, less all amounts payable by the local entity from those improvement revenues for operation and maintenance costs.

(35) "Operation and maintenance costs":

(a) means the costs that a local entity incurs in operating and maintaining improvements in an assessment area, whether or not those improvements have been financed under this chapter; and

(b) includes service charges, administrative costs, ongoing maintenance

charges, and tariffs or other charges for electrical, water, gas, or other utility usage.

(36) "Overhead costs" means the actual costs incurred or the estimated costs to be incurred by a local entity in connection with an assessment area for appraisals, legal fees, filing fees, financial advisory charges, underwriting fees, placement fees, escrow, trustee, and paying agent fees, publishing and mailing costs, costs of levying an assessment, recording costs, and all other incidental costs.

(37) "Prior assessment ordinance" means the ordinance levying the assessments from which the prior bonds are payable.

(38) "Prior assessment resolution" means the resolution levying the assessments from which the prior bonds are payable.

(39) "Prior bonds" means the assessment bonds that are refunded in part or in whole by refunding assessment bonds.

(40) "Project engineer" means the surveyor or engineer employed by or private consulting engineer engaged by a local entity to perform the necessary engineering services for and to supervise the construction or installation of the improvements.

(41) "Property" includes real property and any interest in real property, including water rights and leasehold rights.

(42) "Property price" means the price at which a local entity purchases or acquires by eminent domain property to make improvements in an assessment area.

(43) "Provide" or "providing," with reference to an improvement, includes the acquisition, construction, reconstruction, renovation, maintenance, repair, operation, and expansion of an improvement.

(44) "Public agency" means:

(a) the state or any agency, department, or division of the state; and

(b) a political subdivision of the state.

(45) "Reduced payment obligation" means the full obligation of an owner of property within an assessment area to pay an assessment levied on the property after the assessment has been reduced because of the issuance of refunding assessment bonds, as provided in Section 11-42-608.

(46) "Refunding assessment bonds" means assessment bonds that a local entity issues under Section 11-42-607 to refund, in part or in whole, assessment bonds.

(47) "Renewable energy system" means a product, a system, a device, or an interacting group of devices that:

(a) is permanently affixed to commercial or industrial real property; and

(b) produces energy from renewable resources, including:

(i) a photovoltaic system;

(ii) a solar thermal system;

(iii) a wind system;

(iv) a geothermal system, including:

(A) a generation system;

(B) a direct-use system; or

(C) a ground source heat pump system;

(v) a microhydro system; or

(vi) other renewable sources approved by the governing body of a local entity.

(48) "Reserve fund" means a fund established by a local entity under Section 11-42-702.

(49) "Service" means:

(a) water, sewer, storm drainage, garbage collection, library, recreation, communications, or electric service;

(b) economic promotion activities; or

(c) any other service that a local entity is required or authorized to provide.

(50) "Special service district" has the same meaning as defined in Section 17D-1-102.

(51) "Unimproved property" means property upon which no residential, commercial, or other building has been built.

(52) "Voluntary assessment area" means an assessment area that contains only property whose owners have voluntarily consented to an assessment.

Amended by Chapter 246, 2013 General Session

11-42-103. Limit on effect of this chapter.

(1) Nothing in this chapter may be construed to authorize a local entity to provide an improvement or service that the local entity is not otherwise authorized to provide.

(2) Notwithstanding Subsection (1), a local entity may provide a renewable energy system or energy efficiency upgrade that the local entity finds or determines to be in the public interest.

Amended by Chapter 246, 2013 General Session

11-42-104. Waiver by property owners -- Requirements.

(1) The owners of property to be assessed within an assessment area may waive:

(a) the prepayment period under Subsection 11-42-411(6);

(b) a procedure that a local entity is required to follow to:

(i) designate an assessment area; or

(ii) levy an assessment; or

(c) a period to contest a local entity action.

(2) Each waiver under this section shall:

(a) be in writing;

(b) be signed by all the owners of property to be assessed within the assessment area;

(c) describe the prepayment period, procedure, or contest period being waived;

(d) state that the owners waive the prepayment period, procedure, or contest period; and

(e) state that the owners consent to the local entity taking the required action to waive the prepayment period, procedure, or contest period.

Enacted by Chapter 329, 2007 General Session

11-42-105. No limitation on other local entity powers -- Conflict with other statutory provisions.

(1) This chapter may not be construed to limit a power that a local entity has under other applicable law to:

(a) make an improvement or provide a service;

(b) create a district;

(c) levy an assessment or tax; or

(d) issue bonds or refunding bonds.

(2) If there is a conflict between a provision of this chapter and any other statutory provision, the provision of this chapter governs.

Enacted by Chapter 329, 2007 General Session

11-42-106. Action to contest assessment or proceeding -- Requirements -- Exclusive remedy -- Bonds and assessment incontestable.

(1) A person who contests an assessment or any proceeding to designate an assessment area or levy an assessment may commence a civil action against the local entity to set aside a proceeding or enjoin the levy or collection of an assessment.

(2) (a) Each action under Subsection (1) shall be commenced in the district court with jurisdiction in the county in which the assessment area is located.

(b) An action under Subsection (1) may not be commenced against and a summons relating to the action may not be served on the local entity more than 30 days after the effective date of the assessment resolution or ordinance or, in the case of an amendment, the amended resolution or ordinance.

(3) (a) An action under this section is the exclusive remedy of a person who claims an error or irregularity in an assessment or in any proceeding to designate an assessment area or levy an assessment.

(b) A court may not hear any complaint that a person was authorized to make but did not make in a protest under Section 11-42-203 or at a hearing under Section 11-42-204.

(4) An assessment or a proceeding to designate an assessment area or to levy an assessment may not be declared invalid or set aside in part or in whole because of an error or irregularity that does not go to the equity or justice of the assessment or proceeding.

(5) After the expiration of the 30-day period referred to in Subsection (2)(b):

(a) assessment bonds and refunding assessment bonds issued or to be issued with respect to an assessment area and assessments levied on property in the assessment area become at that time incontestable against all persons who have not commenced an action and served a summons as provided in this section; and

(b) a suit to enjoin the issuance or payment of assessment bonds or refunding assessment bonds, the levy, collection, or enforcement of an assessment, or to attack or question in any way the legality of assessment bonds, refunding assessment bonds, or an assessment may not be commenced, and a court may not inquire into those matters.

Enacted by Chapter 329, 2007 General Session

11-42-107. Accepting donation or contribution.

A local entity may accept any donation or contribution from any source for the payment or the making of an improvement in an assessment area.

Enacted by Chapter 329, 2007 General Session

11-42-108. Utility connections before paving or repaving is done -- Failure to make connection.

(1) The governing body may require:

(a) that before paving or repaving is done within an assessment area, all water, gas, sewer, and underground electric and telecommunications connections be made under the regulations and at the distances from the street mains to the line of the property abutting on the street to be paved or repaved that the local entity prescribes by resolution or ordinance; and

(b) the water company owning the water pipe main, the gas company owning the gas pipe main, and the electric or telecommunications company owning the underground electric or telecommunications facilities to make the connections.

(2) Upon the failure of a water company, gas company, or electric or telecommunications company to make a required connection:

(a) the local entity may cause the connection to be made; and

(b) (i) the cost that the local entity incurs in making the connection shall be deducted from the amount of any debt the local entity owes to the company; and

(ii) the local entity may not pay a bill from the company until all the cost has been offset as provided in Subsection (2)(b)(i).

Enacted by Chapter 329, 2007 General Session

11-42-109. Severability.

A court's invalidation of any provision of this chapter may not be considered to affect the validity of any other provision of this chapter.

Enacted by Chapter 329, 2007 General Session

11-42-201. Resolution or ordinance designating an assessment area -- Zones within an assessment area -- Preconditions to adoption of a resolution or ordinance.

(1) (a) Subject to the requirements of this part, a governing body of a local entity intending to levy an assessment on property to pay some or all of the cost of providing improvements benefitting the property, performing operation and maintenance benefitting the property, or conducting economic promotion activities benefitting the property shall adopt a resolution or ordinance designating an assessment area.

(b) A designation resolution or designation ordinance described in Subsection (1)(a) may divide the assessment area into zones to allow the governing body to:

(i) levy a different level of assessment; or

(ii) use a different assessment method in each zone to reflect more fairly the benefits that property within the different zones is expected to receive because of the proposed improvement, operation and maintenance, or economic promotion activities.

(c) The boundaries of a proposed assessment area may include property that is not intended to be assessed.

(2) Before adopting a designation resolution or designation ordinance described in Subsection (1)(a), the governing body of the local entity shall:

(a) give notice as provided in Section 11-42-202;

(b) receive and consider all protests filed under Section 11-42-203; and

(c) hold a public hearing as provided in Section 11-42-204.

Amended by Chapter 238, 2010 General Session

11-42-202. Requirements applicable to a notice of a proposed assessment area designation.

(1) Each notice required under Subsection 11-42-201(2)(a) shall:

(a) state that the local entity proposes to:

(i) designate one or more areas within the local entity's jurisdictional boundaries as an assessment area;

(ii) provide an improvement to property within the proposed assessment area; and

(iii) finance some or all of the cost of improvements by an assessment on benefitted property within the assessment area;

(b) describe the proposed assessment area by any reasonable method that allows an owner of property in the proposed assessment area to determine that the owner's property is within the proposed assessment area;

(c) describe, in a general way, the improvements to be provided to the assessment area, including:

(i) the general nature of the improvements; and

(ii) the general location of the improvements, by reference to streets or portions or extensions of streets or by any other means that the governing body chooses that reasonably describes the general location of the improvements;

(d) state the estimated cost of the improvements as determined by a project engineer;

(e) state that the local entity proposes to levy an assessment on benefitted property within the assessment area to pay some or all of the cost of the improvements according to the estimated direct and indirect benefits to the property from the improvements;

(f) state the assessment method by which the governing body proposes to levy the assessment, including, if the local entity is a municipality or county, whether the assessment will be collected:

(i) by directly billing a property owner; or

(ii) by inclusion on a property tax notice issued in accordance with Section 59-2-1317;

(g) state:

(i) the date described in Section 11-42-203 and the location at which protests against designation of the proposed assessment area or of the proposed improvements are required to be filed; and

(ii) the method by which the governing body will determine the number of

protests required to defeat the designation of the proposed assessment area or acquisition or construction of the proposed improvements;

(h) state the date, time, and place of the public hearing required in Section 11-42-204;

(i) if the governing body elects to create and fund a reserve fund under Section 11-42-702, include a description of:

(i) how the reserve fund will be funded and replenished; and

(ii) how remaining money in the reserve fund is to be disbursed upon full payment of the bonds;

(j) if the governing body intends to designate a voluntary assessment area, include a property owner consent form that:

(i) estimates the total assessment to be levied against the particular parcel of property;

(ii) describes any additional benefits that the governing body expects the assessed property to receive from the improvements; and

(iii) designates the date and time by which the fully executed consent form is required to be submitted to the governing body;

(k) if the local entity intends to levy an assessment to pay operation and maintenance costs or for economic promotion activities, include:

(i) a description of the operation and maintenance costs or economic promotion activities to be paid by assessments and the initial estimated annual assessment to be levied;

(ii) a description of how the estimated assessment will be determined;

(iii) a description of how and when the governing body will adjust the assessment to reflect the costs of:

(A) in accordance with Section 11-42-406, current economic promotion activities; or

(B) current operation and maintenance costs;

(iv) a description of the method of assessment if different from the method of assessment to be used for financing any improvement; and

(v) a statement of the maximum number of years over which the assessment will be levied for:

(A) operation and maintenance costs; or

(B) economic promotion activities; and

(l) if the governing body intends to divide the proposed assessment area into zones under Subsection 11-42-201(1)(b), include a description of the proposed zones.

(2) A notice required under Subsection 11-42-201(2)(a) may contain other information that the governing body considers to be appropriate, including:

(a) the amount or proportion of the cost of the improvement to be paid by the local entity or from sources other than an assessment;

(b) the estimated amount of each type of assessment for the various improvements to be financed according to the method of assessment that the governing body chooses; and

(c) provisions for any improvements described in Subsection 11-42-102(24)(a)(ii).

(3) Each notice required under Subsection 11-42-201(2)(a) shall:

(a) (i) (A) be published in a newspaper of general circulation within the local entity's jurisdictional boundaries, once a week for four consecutive weeks, with the last publication at least five but not more than 20 days before the day of the hearing required in Section 11-42-204; or

(B) if there is no newspaper of general circulation within the local entity's jurisdictional boundaries, be posted in at least three public places within the local entity's jurisdictional boundaries at least 20 but not more than 35 days before the day of the hearing required in Section 11-42-204; and

(ii) be published on the Utah Public Notice Website described in Section 63F-1-701 for four weeks before the deadline for filing protests specified in the notice under Subsection (1)(g); and

(b) be mailed, postage prepaid, within 10 days after the first publication or posting of the notice under Subsection (3)(a) to each owner of property to be assessed within the proposed assessment area at the property owner's mailing address.

Amended by Chapter 246, 2013 General Session
Amended by Chapter 265, 2013 General Session

11-42-203. Protests.

(1) An owner of property that is proposed to be assessed within an assessment area may, within 60 days after the day of the hearing described in Subsection 11-42-204(1), file a written protest against:

(a) the designation of the assessment area;

(b) the inclusion of the owner's property in the proposed assessment area;

(c) the proposed improvements to be acquired or constructed; or

(d) any other aspect of the proposed designation of an assessment area.

(2) Each protest under Subsection (1)(a) shall describe or otherwise identify the property owned by the person filing the protest.

(3) An owner may withdraw a protest at any time before the expiration of the 60-day period described in Subsection (1) by filing a written withdrawal with the governing body.

(4) If the governing body intends to assess property within the proposed assessment area by type of improvement or by zone, the governing body shall, in determining whether adequate protests have been filed, aggregate the protests by the type of improvement or by zone.

(5) The failure of an owner of property within the proposed assessment area to file a timely written protest constitutes a waiver of any objection to:

(a) the designation of the assessment area;

(b) any improvement to be provided to property within the assessment area; and

(c) the inclusion of the owner's property within the assessment area.

Amended by Chapter 265, 2013 General Session

11-42-204. Hearing.

(1) On the date and at the time and place specified in the notice under Section 11-42-202, the governing body shall hold a public hearing.

(2) (a) The governing body may continue the public hearing from time to time to a fixed future date and time.

(b) The continuance of a public hearing does not restart or extend the protest period described in Subsection 11-42-203(1).

(3) At the public hearing, the governing body shall:

(a) hear all objections to the designation of the proposed assessment area or the improvements proposed to be provided in the assessment area; and

(b) hear all persons desiring to be heard.

(4) The governing body may make changes in:

(a) improvements proposed to be provided to the proposed assessment area; or

(b) the area or areas proposed to be included within the proposed assessment area.

Amended by Chapter 265, 2013 General Session

11-42-205. Unimproved property.

(1) (a) Before a local entity may designate an assessment area in which more than 75% of the property proposed to be assessed consists of unimproved property, and designation of the assessment area would require that the local entity issue bonds, the local entity shall obtain:

(i) an appraisal:

(A) of the unimproved property;

(B) from an appraiser who is a member of the Appraisal Institute;

(C) addressed to the local entity or a financial institution; and

(D) verifying that the market value of the property, after completion of the proposed improvements, is at least three times the amount of the assessments proposed to be levied against the unimproved property; or

(ii) the most recent taxable value of the unimproved property from the assessor of the county in which the unimproved property is located, verifying that the taxable value of the property, after completion of the proposed improvements, is at least three times the amount of the assessments proposed to be levied against the unimproved property.

(b) If the owner of the unimproved property has entered into a construction loan acceptable to the local entity to finance the facilities to be constructed or installed on the unimproved property, the market value of the unimproved property, as determined under Subsection (1)(a)(i), may include, at the local entity's option:

(i) the principal amount of the construction loan; or

(ii) the value of the unimproved property with the facilities to be financed by the construction loan, as determined by an appraisal of:

(A) the unimproved property; and

(B) the facilities proposed to be constructed.

(2) With respect to the designation of an assessment area described in Subsection (1)(a), the local entity may require:

(a) financial information acceptable to the governing body with respect to the owner's ability to pay the proposed assessments;

(b) a financial institution's commitment securing, to the governing body's

satisfaction, the owners' obligation to pay the proposed assessments; or

(c) a development plan, approved by a qualified, independent third party, describing the plan of development and the financial feasibility of the plan, taking into account growth trends, absorption studies, and other demographic information applicable to the unimproved property.

(3) Information that an owner provides to a local entity under Subsection (2)(a) is not a record for purposes of Title 63G, Chapter 2, Government Records Access and Management Act.

Amended by Chapter 388, 2011 General Session

11-42-206. Adoption of a resolution or ordinance regarding a proposed assessment area -- Designation of an assessment area may not occur if adequate protests filed -- Recording of resolution or ordinance and notice of proposed assessment.

(1) (a) After holding a public hearing under Section 11-42-204 and considering protests filed under Section 11-42-203, and subject to Subsection (3), the governing body shall hold a public meeting to adopt a resolution or ordinance:

(i) abandoning the proposal to designate an assessment area; or

(ii) designating an assessment area as described in the notice under Section 11-42-202 or with the changes made as authorized under Subsection 11-42-204(4).

(b) In accordance with Section 11-42-203, the governing body:

(i) may not schedule the public meeting before the expiration of the 60-day protest period; and

(ii) shall consider and report on any timely filed protests.

(2) If the notice under Section 11-42-202 indicates that the proposed assessment area is a voluntary assessment area, the governing body shall:

(a) delete from the proposed assessment area all property whose owners have not submitted an executed consent form consenting to inclusion of the owner's property in the proposed assessment area; and

(b) determine whether to designate a voluntary assessment area, after considering:

(i) the amount of the proposed assessment to be levied on the property within the voluntary assessment area; and

(ii) the benefits that property within the voluntary assessment area will receive from improvements proposed to be financed by assessments on the property.

(3) If adequate protests have been filed, the governing body may not designate an assessment area as described in the notice under Section 11-42-202.

(4) (a) If the governing body adopts a designation resolution or ordinance designating an assessment area, the governing body shall, within 15 days after adopting the designation resolution or ordinance:

(i) record the original or certified copy of the designation resolution or ordinance in the office of the recorder of the county in which property within the assessment area is located; and

(ii) file with the recorder of the county in which property within the assessment area is located a notice of proposed assessment that:

(A) states that the local entity has designated an assessment area; and

(B) lists, by legal description and tax identification number, the property proposed to be assessed.

(b) A governing body's failure to comply with the requirements of Subsection (4)(a) does not invalidate the designation of an assessment area.

(5) After the adoption of a designation resolution or ordinance under Subsection (1)(a), the local entity may begin providing the specified improvements.

Amended by Chapter 265, 2013 General Session

11-42-207. Adding property to an assessment area.

(1) A local entity may add to a designated assessment area property to be benefitted and assessed if the governing body:

(a) finds that the inclusion of the property will not adversely affect the owners of property already in the assessment area;

(b) obtains from each owner of property to be added and benefitted a written consent that contains:

(i) the owner's consent to:

(A) the owner's property being added to the assessment area; and

(B) the making of the proposed improvements with respect to the owner's property;

(ii) the legal description and tax identification number of the property to be added; and

(iii) the owner's waiver of any right to protest the creation of the assessment area;

(c) amends the designation resolution or ordinance to include the added property; and

(d) within 15 days after amending the designation resolution or ordinance:

(i) records in the office of the recorder of the county in which the added property is located the original or certified copy of the amended designation resolution or ordinance containing the legal description and tax identification number of each additional parcel of property added to the assessment area and proposed to be assessed; and

(ii) gives written notice to the property owner of the inclusion of the owner's property in the assessment area.

(2) The failure of a local entity's governing body to comply with the requirement of Subsection (1)(d) does not affect the validity of the amended designation resolution or ordinance.

(3) Except as provided in this section, a local entity may not add to an assessment area property not included in a notice under Section 11-42-202, or provide for making improvements that are not stated in the notice, unless the local entity gives notice as provided in Section 11-42-202 and holds a hearing as required under Section 11-42-204 as to the added property or additional improvements.

Amended by Chapter 246, 2009 General Session

11-42-208. Recording notice of deletion if property is deleted from an assessment area.

If, after adoption of a designation resolution or ordinance under Section 11-42-206, a local entity deletes property from the assessment area, the local entity shall record a notice of deletion in a form that includes the legal description and tax identification number of the property and otherwise complies with applicable recording statutes.

Enacted by Chapter 329, 2007 General Session

11-42-209. Designation of assessment area for energy efficiency upgrade or renewable energy system -- Requirements.

(1) A governing body may not adopt a designation ordinance or resolution to designate an assessment area for an energy efficiency upgrade or a renewable energy system, unless the assessment area is a voluntary assessment area.

(2) A local entity may not include property in a voluntary assessment area described in Subsection (1) unless an owner of property located in the assessment area provides to the local entity:

(a) the written consent of each person or institution holding a lien on the property; and

(b) evidence:

(i) that there are no delinquent taxes, special assessments, or water or sewer charges on the property;

(ii) that the property is not subject to a trust deed or other lien on which there is a recorded notice of default, foreclosure, or delinquency that has not been cured; and

(iii) that there are no involuntary liens, including a lien on real property, or on the proceeds of a contract relating to real property, for services, labor, or materials furnished in connection with the construction or improvement of the property.

Enacted by Chapter 246, 2013 General Session

11-42-301. Improvements made only under contract let to lowest responsive, responsible bidder -- Publishing notice -- Sealed bids -- Procedure -- Exceptions to contract requirement.

(1) Except as otherwise provided in this section, a local entity may make improvements in an assessment area only under contract let to the lowest responsive, responsible bidder for the kind of service, material, or form of construction that the local entity's governing body determines in compliance with any applicable local entity ordinances.

(2) A local entity may:

(a) divide improvements into parts;

(b) (i) let separate contracts for each part; or

(ii) combine multiple parts into the same contract; and

(c) let a contract on a unit basis.

(3) (a) A local entity may not let a contract until after publishing notice as provided in Subsection (3)(b):

(i) at least one time in a newspaper of general circulation within the boundaries of the local entity at least 15 days before the date specified for receipt of bids; and

(ii) in accordance with Section 45-1-101, at least 15 days before the date specified for receipt of bids.

(b) Each notice under Subsection (3)(a) shall notify contractors that the local entity will receive sealed bids at a specified time and place for the construction of the improvements.

(c) Notwithstanding a local entity's failure, through inadvertence or oversight, to publish the notice or to publish the notice within 15 days before the date specified for receipt of bids, the governing body may proceed to let a contract for the improvements if the local entity receives at least three sealed and bona fide bids from contractors by the time specified for the receipt of bids.

(d) A local entity may publish a notice required under this Subsection (3) at the same time as a notice under Section 11-42-202.

(4) (a) A local entity may accept as a sealed bid a bid that is:

(i) manually sealed and submitted; or

(ii) electronically sealed and submitted.

(b) The governing body or project engineer shall, at the time specified in the notice under Subsection (3), open and examine the bids.

(c) In open session, the governing body:

(i) shall declare the bids; and

(ii) may reject any or all bids if the governing body considers the rejection to be for the public good.

(d) The local entity may award the contract to the lowest responsive, responsible bidder even if the price bid by that bidder exceeds the estimated costs as determined by the project engineer.

(e) A local entity may in any case:

(i) refuse to award a contract;

(ii) obtain new bids after giving a new notice under Subsection (3);

(iii) determine to abandon the assessment area; or

(iv) not make some of the improvements proposed to be made.

(5) A local entity is not required to let a contract as provided in this section for:

(a) an improvement or part of an improvement the cost of which or the making of which is donated or contributed;

(b) an improvement that consists of furnishing utility service or maintaining improvements;

(c) labor, materials, or equipment supplied by the local entity;

(d) the local entity's acquisition of completed or partially completed improvements in an assessment area;

(e) design, engineering, and inspection costs incurred with respect to the construction of improvements in an assessment area; or

(f) additional work performed in accordance with the terms of a contract duly let to the lowest responsive, responsible bidder.

(6) A local entity may itself furnish utility service and maintain improvements within an assessment area.

(7) (a) A local entity may acquire completed or partially completed improvements

in an assessment area, but may not pay an amount for those improvements that exceeds their fair market value.

(b) Upon the local entity's payment for completed or partially completed improvements, title to the improvements shall be conveyed to the local entity or another public agency.

(8) The provisions of Title 11, Chapter 39, Building Improvements and Public Works Projects, and Section 72-6-108 do not apply to improvements to be constructed in an assessment area.

(9) (a) Except as provided in Subsection (9)(b), this section does not apply to a voluntary assessment area designated for the purpose of levying an assessment for an energy efficiency upgrade or a renewable energy system.

(b) (i) A local entity that designates a voluntary assessment area described in Subsection (9)(a) shall provide to each owner of property to be assessed a list of service providers authorized by the local entity to provide the energy efficiency upgrade or renewable energy system.

(ii) A property owner described in Subsection (9)(b)(i) shall select a service provider from the list to provide the energy efficiency upgrade or renewable energy system for the owner's property.

Amended by Chapter 246, 2013 General Session

11-42-302. Contracts for work in an assessment area -- Sources of payment -- Payments as work progresses.

(1) A contract for work in an assessment area or for the purchase of property required to make an improvement in an assessment area may require the contract obligation to be paid from proceeds from the sale of assessment bonds, interim warrants, or bond anticipation notes.

(2) (a) To the extent that a contract is not paid from the sources stated in Subsection (1), the local entity shall advance funds to pay the contract obligation from other legally available money, according to the requirements of the contract.

(b) A local entity may reimburse itself for an amount paid from its general fund or other funds under Subsection (2)(a) from:

(i) the proceeds from the sale of assessment bonds, interim warrants, or bond anticipation notes; or

(ii) assessments or improvement revenues that are not pledged for the payment of assessment bonds, interim warrants, or bond anticipation notes.

(c) A local entity may not reimburse itself for costs of making an improvement that are properly chargeable to the local entity or for which an assessment may not be levied.

(3) (a) A contract for work in an assessment area may provide for payments to the contractor as the work progresses.

(b) If a contract provides for periodic payments:

(i) periodic payments may not exceed 90% of the value of the work done to the date of the payment, as determined by estimates of the project engineer; and

(ii) a final payment may be made only after the contractor has completed the work and the local entity has accepted the work.

(c) If a local entity retains money payable to a contractor as the work progresses, the local entity shall retain or withhold and release the money as provided in Section 13-8-5.

Enacted by Chapter 329, 2007 General Session

11-42-401. Levying an assessment -- Prerequisites -- Assessment list.

(1) (a) If a local entity has designated an assessment area in accordance with Part 2, Designating an Assessment Area, the local entity may levy an assessment against property within that assessment area as provided in this part.

(b) If a local entity that is a municipality or county designates an assessment area in accordance with this chapter, the municipality or county may levy an assessment and collect the assessment in accordance with Subsection 11-42-202(1)(f)(i) or (ii).

(c) An assessment billed by a municipality or county in the same manner as a property tax and included on a property tax notice in accordance with Subsection 11-42-202(1)(f)(ii) is enforced in accordance with, constitutes a lien in accordance with, and is subject to other penalty provisions in accordance with this chapter.

(2) Before a governing body may adopt a resolution or ordinance levying an assessment against property within an assessment area:

(a) the governing body shall:

(i) subject to Subsection (3), prepare an assessment list designating:

(A) each parcel of property proposed to be assessed; and

(B) the amount of the assessment to be levied against the property;

(ii) appoint a board of equalization as provided in Section 11-42-403; and

(iii) give notice as provided in Section 11-42-402; and

(b) the board of equalization, appointed under Section 11-42-403, shall hold hearings, make any corrections it considers appropriate to an assessment, and report its findings to the governing body as provided in Section 11-42-403.

(3) (a) The governing body of a local entity shall prepare the assessment list described in Subsection (2)(a)(i) at any time after:

(i) the governing body has determined the estimated or actual operation and maintenance costs, if the assessment is to pay operation and maintenance costs;

(ii) the governing body has determined the estimated or actual economic promotion costs described in Section 11-42-206, if the assessment is to pay for economic promotion activities; or

(iii) for any other assessment, the governing body has determined:

(A) the estimated or actual acquisition and construction costs of all proposed improvements within the assessment area, including overhead costs and authorized contingencies;

(B) the estimated or actual property price for all property to be acquired to provide the proposed improvements; and

(C) the reasonable cost of any work to be done by the local entity.

(b) In addition to the requirements of Subsection (3)(a), the governing body of a local entity shall prepare the assessment list described in Subsection (2)(a)(i) before:

(i) the light service has commenced, if the assessment is to pay for light service;

or

(ii) the park maintenance has commenced, if the assessment is to pay for park maintenance.

(4) A local entity may levy an assessment for some or all of the cost of improvements within an assessment area, including payment of:

(a) operation and maintenance costs of improvements constructed within the assessment area;

(b) (i) if an outside entity furnishes utility services or maintains utility improvements, the actual cost that the local entity pays for utility services or for maintenance of improvements; or

(ii) if the local entity itself furnishes utility service or maintains improvements, for the reasonable cost of supplying the utility service or maintenance;

(c) the reasonable cost of supplying labor, materials, or equipment in connection with improvements; and

(d) (i) the reasonable cost of connection fees; or

(ii) the reasonable costs, as determined by the local entity governing body, if the local entity owns or supplies any sewer, storm drainage, water, gas, electric, or communications connections.

(5) A local entity may not levy an assessment for an amount donated or contributed for an improvement or part of an improvement.

(6) The validity of an otherwise valid assessment is not affected because the actual cost of improvements exceeds the estimated cost.

(7) (a) Subject to Subsection (7)(b), an assessment levied to pay for operation and maintenance costs may not be levied over a period of time exceeding five years beginning on the day on which the local entity adopts the assessment ordinance or assessment resolution for the operation and maintenance costs assessment.

(b) A local entity may levy an additional assessment described in Subsection (7)(a) in the assessment area designated for the assessment described in Subsection (7)(a) if, after the five-year period expires, the local entity complies with the applicable levy provisions of this part.

Amended by Chapter 265, 2013 General Session

11-42-402. Notice of assessment and board of equalization hearing.

Each notice required under Subsection 11-42-401(2)(a)(iii) shall:

(1) state:

(a) that an assessment list is completed and available for examination at the offices of the local entity;

(b) the total estimated or actual cost of the improvements;

(c) the amount of the total estimated or actual cost of the proposed improvements to be paid by the local entity;

(d) the amount of the assessment to be levied against benefitted property within the assessment area;

(e) the assessment method used to calculate the proposed assessment;

(f) the unit cost used to calculate the assessments shown on the assessment list, based on the assessment method used to calculate the proposed assessment; and

(g) the dates, times, and place of the board of equalization hearings under Subsection 11-42-401(2)(b);

(2) (a) beginning at least 20 but not more than 35 days before the day on which the first hearing of the board of equalization is held:

(i) be published at least once in a newspaper of general circulation within the local entity's jurisdictional boundaries; or

(ii) if there is no newspaper of general circulation within the local entity's jurisdictional boundaries, be posted in at least three public places within the local entity's jurisdictional boundaries; and

(b) be published on the Utah Public Notice Website created in Section 63F-1-701 for 35 days immediately before the day on which the first hearing of the board of equalization is held; and

(3) be mailed, postage prepaid, within 10 days after the first publication or posting of the notice under Subsection (2) to each owner of property to be assessed within the proposed assessment area at the property owner's mailing address.

Amended by Chapter 90, 2010 General Session
Amended by Chapter 238, 2010 General Session

11-42-403. Board of equalization -- Hearings -- Corrections to proposed assessment list -- Report to governing body -- Appeal -- Board findings final -- Waiver of objections.

(1) After preparing an assessment list under Subsection 11-42-401(2)(a)(i), the governing body shall appoint a board of equalization.

(2) Each board of equalization under this section shall, at the option of the governing body, consist of:

(a) three or more members of the governing body;

(b) (i) two members of the governing body; and

(ii) (A) a representative of the treasurer's office of the local entity; or

(B) a representative of the office of the local entity's engineer or the project engineer; or

(c) (i) (A) one member of the governing body; or

(B) a representative of the governing body, whether or not a member of the governing body, appointed by the governing body;

(ii) a representative of the treasurer's office of the local entity; and

(iii) a representative of the office of the local entity's engineer or the project engineer.

(3) (a) The board of equalization shall hold hearings on at least three consecutive days for at least one hour per day between 9 a.m. and 9 p.m., as specified in the notice under Section 11-42-402.

(b) The board of equalization may continue a hearing from time to time to a specific place and a specific hour and day until the board's work is completed.

(c) At each hearing, the board of equalization shall hear arguments from any person who claims to be aggrieved, including arguments relating to:

(i) the direct or indirect benefits accruing to a tract, block, lot, or parcel of property in the assessment area; or

(ii) the amount of the proposed assessment against the tract, block, lot, or parcel.

(4) (a) After the hearings under Subsection (3) are completed, the board of equalization shall:

(i) consider all facts and arguments presented at the hearings; and

(ii) make any corrections to the proposed assessment list that the board considers just and equitable.

(b) A correction under Subsection (4)(a)(ii) may:

(i) eliminate one or more pieces of property from the assessment list; or

(ii) increase or decrease the amount of the assessment proposed to be levied against a parcel of property.

(c) (i) If the board of equalization makes a correction under Subsection (4)(a)(ii) that results in an increase of a proposed assessment, the board shall, before approving a corrected assessment list:

(A) give notice as provided in Subsection (4)(c)(ii);

(B) hold a hearing at which the owner whose assessment is proposed to be increased may appear and object to the proposed increase; and

(C) after holding a hearing, make any further corrections that the board considers just and equitable with respect to the proposed increased assessment.

(ii) Each notice required under Subsection (4)(c)(i)(A) shall:

(A) state:

(I) that the property owner's assessment is proposed to be increased;

(II) the amount of the proposed increased assessment;

(III) that a hearing will be held at which the owner may appear and object to the increase; and

(IV) the date, time, and place of the hearing; and

(B) be mailed, at least 15 days before the date of the hearing, to each owner of property as to which the assessment is proposed to be increased at the property owner's mailing address.

(5) (a) After the board of equalization has held all hearings required by this section and has made all corrections the board considers just and equitable, the board shall report to the governing body its findings that:

(i) each parcel of property within the assessment area will be directly or indirectly benefitted in an amount not less than the assessment to be levied against the property; and

(ii) except as provided in Subsection 11-42-409(6), no parcel of property on the assessment list will bear more than its proportionate share of the cost of the improvements benefitting the property.

(b) The board of equalization shall, within 10 days after submitting its report to the governing body, mail a copy of the board's final report to each property owner who objected at the board hearings to the assessment proposed to be levied against the property owner's property at the property owner's mailing address.

(6) (a) If a board of equalization includes members other than the governing body of the local entity, a property owner may appeal a decision of the board to the governing body by filing with the governing body a written notice of appeal within 15 days after the board's final report is mailed to property owners under Subsection (5)(b).

(b) Except as provided in Subsection (6)(a), no appeal may be taken from the findings of a board of equalization.

(7) The findings of a board of equalization are final:

(a) when approved by the governing body, if no appeal is allowed under Subsection (6); or

(b) after the time for appeal under Subsection (6) is passed, if an appeal is allowed under that subsection.

(8) (a) If a governing body has levied an assessment to pay operation and maintenance costs within an assessment area, the governing body may periodically appoint a new board of equalization to review assessments for operation and maintenance costs.

(b) Each board of equalization appointed under Subsection (8)(a) shall comply with the requirements of Subsections (3) through (6).

(9) The failure of an owner of property within the assessment area to appear before the board of equalization to object to the levy of the assessment constitutes a waiver of all objections to the levy, except an objection that the governing body failed to obtain jurisdiction to order that the improvements which the assessment is intended to pay be provided to the assessment area.

Amended by Chapter 246, 2009 General Session

11-42-404. Adoption of a resolution or ordinance levying an assessment -- Notice of the adoption -- Effective date of resolution or ordinance -- Notice of assessment interest.

(1) (a) After receiving a final report from a board of equalization under Subsection 11-42-403(5) or, if applicable, after the time for filing an appeal under Subsection 11-42-403(6) has passed, the governing body may adopt a resolution or ordinance levying an assessment against benefitted property within the assessment area designated in accordance with Part 2, Designating an Assessment Area.

(b) (i) Except as provided in Subsection (1)(b)(ii), a local entity may not levy more than one assessment under this chapter for an assessment area designated in accordance with Part 2, Designating an Assessment Area.

(ii) A local entity may levy more than one assessment in an assessment area designated in accordance with Part 2, Designating an Assessment Area, if:

(A) the local entity has adopted a designation resolution or designation ordinance for each assessment in accordance with Section 11-42-201; and

(B) the assessment is levied to pay:

(I) subject to Section 11-42-401, operation and maintenance costs; or

(II) subject to Section 11-42-406, the costs of economic promotion activities.

(c) An assessment resolution or ordinance adopted under Subsection (1)(a):

(i) need not describe each tract, block, lot, part of block or lot, or parcel of property to be assessed;

(ii) need not include the legal description or tax identification number of the parcels of property assessed in the assessment area; and

(iii) is adequate for purposes of identifying the property to be assessed within the assessment area if the assessment resolution or ordinance incorporates by

reference the corrected assessment list that describes the property assessed by legal description and tax identification number.

(2) (a) A local entity that adopts an assessment resolution or ordinance shall give notice of the adoption by:

(i) (A) publishing a copy of the resolution or ordinance, or a summary of the resolution or ordinance, once in a newspaper of general circulation within the local entity's jurisdictional boundaries; or

(B) if there is no newspaper of general circulation with the local entity's jurisdictional boundaries as described in Subsection (2)(a)(i), posting a copy of the resolution or ordinance in at least three public places within the local entity's jurisdictional boundaries for at least 21 days; and

(ii) publishing, in accordance with Section 45-1-101, a copy of the resolution or ordinance for at least 21 days.

(b) No other publication or posting of the resolution or ordinance is required.

(3) Notwithstanding any other statutory provision regarding the effective date of a resolution or ordinance, each assessment resolution or ordinance takes effect:

(a) on the date of publication or posting of the notice under Subsection (2); or

(b) at a later date provided in the resolution or ordinance.

(4) (a) The governing body of each local entity that has adopted an assessment resolution or ordinance under Subsection (1) shall, within five days after the day on which the 25-day prepayment period under Subsection 11-42-411(6) has passed, file a notice of assessment interest with the recorder of the county in which the assessed property is located.

(b) Each notice of assessment interest under Subsection (4)(a) shall:

(i) state that the local entity has an assessment interest in the assessed property;

(ii) if the assessment is to pay operation and maintenance costs or for economic promotion activities, state the maximum number of years over which an assessment will be payable; and

(iii) describe the property assessed by legal description and tax identification number.

(c) A local entity's failure to file a notice of assessment interest under this Subsection (4) has no affect on the validity of an assessment levied under an assessment resolution or ordinance adopted under Subsection (1).

Amended by Chapter 238, 2010 General Session

11-42-405. Limit on amount of assessment -- Costs required to be paid by the local entity.

(1) An assessment levied within an assessment area may not, in the aggregate, exceed the sum of:

(a) the contract price or estimated contract price;

(b) the acquisition price of improvements;

(c) the reasonable cost of:

(i) (A) utility services, maintenance, and operation, to the extent permitted by Subsection 11-42-401(4); and

(B) labor, materials, or equipment supplied by the local entity;

(ii) economic promotion activities; or

(iii) operation and maintenance costs;

(d) the price or estimated price of purchasing property;

(e) any connection fees;

(f) estimated interest on interim warrants and bond anticipation notes issued with respect to an assessment area;

(g) the capitalized interest on each assessment bond;

(h) overhead costs not to exceed 15% of the sum of Subsections (1)(a), (b), (c), and (e);

(i) an amount for contingencies of not more than 10% of the sum of Subsections (1)(a) and (c), if the assessment is levied before construction of the improvements in the assessment area is completed;

(j) an amount sufficient to fund a reserve fund, if the governing body creates and funds a reserve fund as provided in Section 11-42-702;

(k) 1/2 the cost of grading changes as provided in Section 11-42-407; and

(l) incidental costs incurred by a property owner in order to satisfy the local entity's requirements for inclusion in a voluntary assessment area, if applicable.

(2) Each local entity providing an improvement in an assessment area shall pay, from improvement revenues not pledged to the payment of bonds and from any other legally available money:

(a) overhead costs for which an assessment cannot be levied;

(b) the costs of providing an improvement for which an assessment was not levied, if the assessment is levied before construction of the improvement in the assessment area is completed; and

(c) the acquisition and constructions costs of an improvement for the benefit of property against which an assessment may not be levied.

Amended by Chapter 246, 2013 General Session

11-42-406. Assessment for economic promotion activities -- Reporting.

(1) (a) If the governing body of a local entity designates an assessment area in accordance with Part 2, Designating an Assessment Area, for economic promotion activities, the governing body:

(i) may levy an assessment to pay for economic promotion activities by adopting an assessment resolution or ordinance in accordance with Section 11-42-404; and

(ii) subject to Subsection (1)(b), may levy an additional assessment for economic promotion activities for the designated assessment area described in Subsection (1)(a):

(A) by adopting an assessment resolution or an ordinance in accordance with Section 11-42-404; and

(B) for a period of five years, beginning on the day on which the local entity adopts the initial assessment resolution or ordinance described in Subsection (1)(a)(i).

(b) A governing body may not levy an additional assessment to pay for economic promotion activities after the five-year period described in Subsection (1)(a)(ii)(B) unless the governing body:

(i) designates a new assessment area in accordance with Part 2, Designating an Assessment Area; and

(ii) adopts a new assessment resolution or ordinance in accordance with Section 11-42-404.

(2) If a local entity designates an assessment area for economic promotion activities, the local entity:

(a) shall spend on economic promotion activities at least 70% of the money generated from an assessment levied in the assessment area and from improvement revenues;

(b) may not spend more than 30% of the money generated from the assessment levied in the assessment area and from improvement revenues on administrative costs, including salaries, benefits, rent, travel, and costs incidental to publications; and

(c) in accordance with Subsection (3), shall publish a detailed report including the following:

(i) an account of money deposited into the assessment fund described in Section 11-42-412;

(ii) an account of expenditures from the fund described in Section 11-42-412; and

(iii) a detailed account of whether each expenditure described in Subsection (2)(c)(ii) was made for economic promotion activities described in Subsection (2)(a) or for administrative costs described in Subsection (2)(b).

(3) A local entity shall publish a report required in Subsection (2)(c):

(a) on:

(i) if available, the local entity's public web site; and

(ii) if the local entity is not a county or municipality, on the public web site of any county or municipality in which the local entity has jurisdiction;

(b) (i) within one year after the day on which the local entity adopts a new assessment resolution or ordinance for economic promotion activities; and

(ii) each subsequent year that the economic promotion activities levy is assessed by updating the information described in Subsection (2)(c); and

(c) for six months on a web site described in Subsection (3)(a) after the day on which the report is initially published under Subsection (3)(b) or updated under Subsection (3)(b)(ii).

Amended by Chapter 238, 2010 General Session

11-42-407. Improvements that change the grade of an existing street, alley, or sidewalk -- Improvements that improve an intersection or spaces opposite an alley.

(1) If an improvement in an assessment area involves changing the grade of an existing street, alley, or sidewalk, the local entity shall pay half of the cost of bringing the street, alley, or sidewalk to the established grade.

(2) If an improvement in an assessment area improves an intersection of streets or spaces opposite an alley, the local entity may levy an assessment against the other properties to be assessed in the assessment area for the cost of the improvement.

Enacted by Chapter 329, 2007 General Session

11-42-408. Assessment against government land prohibited -- Exception.

(1) (a) Except as provided in Subsection (2), a local entity may not levy an assessment against property owned by the federal government or a public agency, even if the property benefits from the improvement.

(b) Notwithstanding Subsection (1)(a), a public agency may contract with a local entity:

(i) for the local entity to provide an improvement to property owned by the public agency; and

(ii) to pay for the improvement provided by the local entity.

(c) Nothing in this section may be construed to prevent a local entity from imposing on and collecting from a public agency, or a public agency from paying, a reasonable charge for a service rendered or material supplied by the local entity to the public agency, including a charge for water, sewer, or lighting service.

(2) Notwithstanding Subsection (1):

(a) a local entity may continue to levy and enforce an assessment against property acquired by a public agency within an assessment area if the acquisition occurred after the assessment area was designated;

(b) property that is subject to an assessment lien at the time it is acquired by a public agency continues to be subject to the lien and to enforcement of the lien if the assessment and interest on the assessment are not paid when due; and

(c) a local entity may levy an assessment against property owned by the federal government or a public agency if the federal government or public agency voluntarily enters into a voluntary assessment area for the purpose of financing an energy efficiency upgrade or a renewable energy system.

Amended by Chapter 246, 2013 General Session

11-42-409. Assessment requirements.

(1) (a) Each local entity that levies an assessment under this chapter shall levy the assessment on each block, lot, tract, or parcel of property that borders, is adjacent to, or benefits from an improvement:

(i) to the extent that the improvement directly or indirectly benefits the property; and

(ii) to whatever depth on the parcel of property that the governing body determines, including the full depth.

(b) The validity of an otherwise valid assessment is not affected by the fact that the benefit to the property from the improvement:

(i) is only indirect; or

(ii) does not increase the fair market value of the property.

(2) The assessment method a governing body uses to calculate an assessment may be according to frontage, area, taxable value, fair market value, lot, number of connections, equivalent residential unit, or any combination of these methods, as the governing body considers fair and equitable.

(3) In calculating assessments, a governing body may:

(a) use different methods for different improvements in an assessment area; and

(b) assess different amounts in different zones, even when using the same method, if acquisition or construction costs differ from zone to zone.

(4) (a) Each local entity shall make an allowance for each corner lot receiving the same improvement on both sides so that the property is not assessed at the full rate on both sides.

(b) A local entity may allocate a corner lot allowance under Subsection (4)(a) to all other benefitted property within the assessment area by increasing the assessment levied against the other property.

(5) (a) Assessments shall be fair and equitable according to the benefit to the benefitted property from the improvement.

(b) To comply with Subsection (5)(a), a local entity may levy assessments within zones.

(6) A local entity may levy an assessment that would otherwise violate a provision of this chapter if the owners of all property to be assessed enter into a written agreement with the local entity consenting to the assessment.

Enacted by Chapter 329, 2007 General Session

11-42-410. Amending an assessment resolution or ordinance.

(1) A governing body may adopt a resolution or ordinance amending the original assessment resolution or ordinance adopted under Section 11-42-404 to:

(a) correct a deficiency, omission, error, or mistake:

(i) with respect to:

(A) the total cost of an improvement;

(B) operation and maintenance costs; or

(C) the cost of economic promotion activities; or

(ii) that results in a tract, lot, block, or parcel not being fully assessed or assessed in an incorrect amount;

(b) reallocate or adjust assessments under the original assessment resolution or ordinance for operation and maintenance costs or the costs of economic promotion activities;

(c) reallocate or adjust assessments under the original assessment resolution or ordinance; or

(d) reduce an assessment as a result of the issuance of refunding bonds.

(2) If an amendment under Subsection (1)(a) or (c) results in an increase in an assessment for any property owner, the governing body shall comply with the notice requirements of Section 11-42-402, unless the owner waives notice as provided in Section 11-42-104.

Amended by Chapter 246, 2009 General Session

11-42-411. Installment payment of assessments.

(1) (a) In an assessment resolution or ordinance, the governing body may,

subject to Subsection (1)(b), provide that some or all of the assessment be paid in installments over a period not to exceed 20 years from the effective date of the resolution or ordinance.

(b) If an assessment resolution or ordinance provides that some or all of the assessment be paid in installments for a period exceeding 10 years from the effective date of the resolution or ordinance, the governing body:

(i) shall make a determination that:

(A) the improvement for which the assessment is made has a reasonable useful life for the full period during which installments are to be paid; or

(B) it would be in the best interests of the local entity and the property owners for installments to be paid for more than 10 years; and

(ii) may provide in the resolution or ordinance that no assessment is payable during some or all of the period ending three years after the effective date of the resolution or ordinance.

(2) An assessment resolution or ordinance that provides for the assessment to be paid in installments may provide that the unpaid balance be paid over the period of time that installments are payable:

(a) in substantially equal installments of principal;

(b) in substantially equal installments of principal and interest; or

(c) for an assessment levied for an energy efficiency upgrade or a renewable energy system, in accordance with the assessment resolution or ordinance.

(3) (a) Each assessment resolution or ordinance that provides for the assessment to be paid in installments shall, subject to Subsections (3)(b) and (c), provide that the unpaid balance of the assessment bear interest at a fixed rate, variable rate, or a combination of fixed and variable rates, as determined by the governing body, from the effective date of the resolution or ordinance or another date specified in the resolution or ordinance.

(b) If the assessment is for operation and maintenance costs or for the costs of economic promotion activities:

(i) a local entity may charge interest only from the date each installment is due; and

(ii) the first installment of an assessment shall be due 15 days after the effective date of the assessment resolution or ordinance.

(c) If an assessment resolution or ordinance provides for the unpaid balance of the assessment to bear interest at a variable rate, the assessment resolution or ordinance shall specify:

(i) the basis upon which the rate is to be determined from time to time;

(ii) the manner in which and schedule upon which the rate is to be adjusted; and

(iii) a maximum rate that the assessment may bear.

(4) Interest payable on assessments may include:

(a) interest on assessment bonds;

(b) ongoing local entity costs incurred for administration of the assessment area; and

(c) any costs incurred with respect to:

(i) securing a letter of credit or other instrument to secure payment or repurchase of bonds; or

(ii) retaining a marketing agent or an indexing agent.

(5) Interest imposed in an assessment resolution or ordinance shall be paid in addition to the amount of each installment annually or at more frequent intervals as provided in the assessment resolution or ordinance.

(6) (a) Except for an assessment for operation and maintenance costs or for the costs of economic promotion activities, a property owner may pay some or all of the entire assessment without interest if paid within 25 days after the assessment resolution or ordinance takes effect.

(b) After the 25-day period stated in Subsection (6)(a), a property owner may at any time prepay some or all of the assessment levied against the owner's property.

(c) A local entity may require a prepayment of an installment to include:

(i) an amount equal to the interest that would accrue on the assessment to the next date on which interest is payable on bonds issued in anticipation of the collection of the assessment; and

(ii) the amount necessary, in the governing body's opinion or the opinion of the officer designated by the governing body, to assure the availability of money to pay:

(A) interest that becomes due and payable on those bonds; and

(B) any premiums that become payable on bonds that are called in order to use the money from the prepaid assessment installment.

Amended by Chapter 246, 2013 General Session

11-42-412. Assessment fund -- Uses of money in the fund -- Treasurer's duties with respect to the fund.

(1) The governing body of each local entity that levies an assessment under this part on benefitted property within an assessment area shall establish an assessment fund.

(2) The governing body shall:

(a) deposit into the assessment fund all money paid to the local entity from assessments and interest on assessments; and

(b) deposit into a separate account in the assessment fund all money paid to the local entity from improvement revenues.

(3) Money in an assessment fund may be expended only for paying:

(a) the local entity's costs and expenses of making, operating, and maintaining improvements to the extent permitted under Section 11-42-415;

(b) operation and maintenance costs;

(c) economic promotion activities;

(d) local entity obligations; and

(e) costs that the local entity incurs with respect to:

(i) administration of the assessment area; or

(ii) obtaining a letter of credit or other instrument or fund to secure the payment of assessment bonds.

(4) The treasurer of the local entity:

(a) shall:

(i) subject to Subsection (4)(b)(i), be the custodian of the assessment fund;

(ii) keep the assessment fund intact and separate from all other local entity

funds and money;

(iii) invest money in an assessment fund by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; and

(iv) keep on deposit in the assessment fund any interest received from the investment of money in the assessment fund and use the interest exclusively for the purposes for which the assessment fund was established; and

(b) may:

(i) arrange for the assessment fund to be held by a trustee bank on behalf of the local entity; and

(ii) pay money out of the assessment fund only for the purposes listed in Subsection (3).

(5) When all local entity obligations have been paid or legally considered paid in full, the treasurer of the local entity shall transfer all money remaining in the assessment fund as provided in Section 11-42-414.

Enacted by Chapter 329, 2007 General Session

11-42-413. Surplus assessments -- Payment of bonds -- Rebate of assessment if improvements abandoned.

(1) As used in this section:

(a) "Current owner" means the owner of property at the time a rebate under this section is paid.

(b) "Last-known address" means the last address of an owner of property within an assessment area according to the last completed real property assessment roll of the county in which the property is located.

(c) "Net assessment" means the amount of an assessment after subtracting:

(i) the amount required to pay for any improvements that have been made prior to their being abandoned; and

(ii) any damages or costs related to an abandonment of improvements.

(2) (a) If the total cost of completed and accepted improvements is less than the total amount of assessments levied for those improvements, the local entity shall place the surplus in the assessment fund.

(b) If a local entity issues assessment bonds before a surplus under Subsection (2)(a) is determined, the local entity shall hold the surplus in the assessment fund and use the surplus for the payment of the bonds, interest, and any penalties and costs.

(3) If a local entity abandons improvements in an assessment area before the improvements have been started or, if started, before they have been completed and accepted but after an assessment has been levied, the local entity shall rebate the net assessment to the current owner.

Enacted by Chapter 329, 2007 General Session

11-42-414. Remaining interest and other money in assessment fund to be transferred to the guaranty fund or the local entity's general fund.

The treasurer of each local entity that collects interest from the investment of an assessment fund or that receives penalties, costs, and other amounts for the benefit

and credit of an assessment that remain after all local entity obligations are paid in full and cancelled shall transfer the remaining amount to:

(1) the guaranty fund, if required by bond covenants; or

(2) the local entity's general fund.

Enacted by Chapter 329, 2007 General Session

11-42-415. Pledge and use of improvement revenues -- Reducing installment payments -- Notice -- Overpayment of installment.

(1) A local entity may, by resolution adopted by the governing body, provide for the pledge and use of any improvement revenues to pay:

(a) some or all of the costs and expenses of making, operating, and maintaining improvements, to the extent permitted under this chapter; and

(b) some or all of the principal of and interest on assessment bonds, interim warrants, and bond anticipation notes issued against the assessment area to make improvements within the assessment area.

(2) (a) If the governing body adopts a resolution under Subsection (1), the local entity:

(i) may:

(A) provide for assessments to be levied in the full amount of the estimated cost of the improvements, as determined by a project engineer;

(B) agree to use installment payments from assessments to pay the costs of the improvements and to pay principal of and interest on any assessment bonds, interim warrants, and bond anticipation notes when due; and

(C) reduce installment payments, as provided in Subsection (2)(a)(ii), if the local entity receives net improvement revenues and pledges them to pay operation and maintenance costs of the improvements and to pay principal of and interest on assessment bonds, interim warrants, or bond anticipation notes; and

(ii) shall authorize a local entity official to:

(A) determine on each installment payment date the amount of net improvement revenues that the local entity has received since the last installment payment date; and

(B) reduce the amount of the installment payment due on the next succeeding installment payment date by an amount that is no greater than the amount of the net improvement revenues described in Subsection (2)(a)(ii)(A).

(b) A local entity may not reduce installment payments under Subsection (2)(a)(ii) if:

(i) the reduction exceeds the amount of net improvement revenues that have been pledged to pay:

(A) operation and maintenance costs of the improvements; and

(B) principal of and interest on assessment bonds, interim warrants, and bond anticipation notes; or

(ii) after the reduction, the sum of the assessment installment payments and the net improvement revenues are insufficient to pay:

(A) operation and maintenance costs of the improvements; and

(B) principal of and interest on assessment bonds, interim warrants, and bond anticipation notes.

(c) The local entity shall require that each reduction of installment payments be made so that the assessments levied against each assessed property receive a proportionate share of the reduction.

(d) A reduction under Subsection (2)(a)(ii) does not apply to an assessment or interest on an assessment that has been paid.

(3) (a) Not more than 14 days after making a determination under Subsection (2)(a)(ii) to reduce an installment payment, the local entity's governing body shall mail notice of the reduction to each owner of property within the assessment area at the property owner's mailing address.

(b) The governing body may include the notice required under Subsection (3)(a) with or in any other notice regarding the payment of assessments and interest on assessments that the governing body sends to owners.

(4) (a) If an owner of assessed property pays more than the amount of the reduced installment payment on the installment payment date after a notice under Subsection (3) is mailed, the local entity may, by following the procedure under Subsection (3), provide additional notice to the owner that:

(i) the owner has overpaid the assessment installment payment; and

(ii) the local entity will:

(A) credit the amount of the overpayment against the next installment payment due; or

(B) if no further installment payment is due, refund the amount of the overpayment upon receipt of a written refund request from the owner.

(b) If a local entity receives an overpayment of an installment payment, it shall:

(i) credit the amount of the overpayment against the next installment payment due; or

(ii) refund the amount of the overpayment to the owner if:

(A) no further installment payment is due; and

(B) the owner submits a written request for a refund.

(c) A local entity is not required to pay interest on an overpayment that it holds.

Enacted by Chapter 329, 2007 General Session

11-42-416. Validation of prior assessment proceedings.

(1) Subject to Subsection (2), all proceedings taken before April 30, 2007 related to the levy of assessments are validated, ratified, and confirmed, and the assessments are declared to be legal and valid assessments.

(2) Nothing in this section may be construed to affect the validity of an assessment whose legality is being contested on April 30, 2007.

(3) (a) This chapter applies to all assessments levied after April 30, 2007, even though proceedings were taken before that date under provisions of the law then in effect but repealed or modified on or after that date.

(b) Proceedings taken as described in Subsection (3)(a) under the law in effect before April 30, 2007 are validated, ratified, and confirmed, except to the extent that those proceedings are the subject of an action pending on April 30, 2007 challenging the proceedings.

Enacted by Chapter 329, 2007 General Session

11-42-501. Assessment constitutes a lien -- Characteristics of an assessment lien.

(1) Each assessment levied under this chapter, including any installment of an assessment, interest, and any penalties and costs of collection, constitutes a lien against the property assessed as of the effective date of the assessment resolution or ordinance.

(2) A lien under this section:

(a) is superior to the lien of a trust deed, mortgage, mechanic's or materialman's lien, or other encumbrances;

(b) is equal to and on a parity with a lien for general property taxes;

(c) applies without interruption, change in priority, or alteration in any manner to any reduced payment obligations; and

(d) continues until the assessments, reduced payment obligations, and any interest, penalties, and costs are paid, despite a sale of the property for or on account of a delinquent general property tax, special tax, or other assessment or the issuance of a tax deed, an assignment of interest by the county, or a sheriff's certificate of sale or deed.

Enacted by Chapter 329, 2007 General Session

11-42-502. Enforcement of an assessment lien -- Methods of enforcing lien -- Redemption of property -- Remedies are cumulative to other remedies.

(1) If an assessment or an installment of an assessment is not paid when due, the local entity may sell the property on which the assessment has been levied for the amount due plus interest, penalties, and costs, in the manner provided:

(a) by resolution or ordinance of the local entity;

(b) in Title 59, Chapter 2, Part 13, Collection of Taxes, for the sale of property for delinquent general property taxes; or

(c) in Title 57, Chapter 1, Conveyances, as though the property were the subject of a trust deed in favor of the local entity.

(2) Except as modified by this chapter, each tax sale under Subsection (1)(b) shall be governed by Title 59, Chapter 2, Part 13, Collection of Taxes, to the same extent as if the sale were for the sale of property for delinquent general property taxes.

(3) (a) In a foreclosure under Subsection (1)(c):

(i) the local entity may bid at the sale;

(ii) the local entity's governing body shall designate a trustee satisfying the requirements of Section 57-1-21;

(iii) each trustee designated under Subsection (3)(a)(ii) has a power of sale with respect to the property that is the subject of the delinquent assessment lien;

(iv) the property that is the subject of the delinquent assessment lien is considered to have been conveyed to the trustee, in trust, for the sole purpose of permitting the trustee to exercise the trustee's power of sale under Subsection (3)(a)(iii);

(v) if no one bids at the sale and pays the local entity the amount due on the assessment, plus interest and costs, the property is considered sold to the local entity

for those amounts; and

(vi) the local entity's chief financial officer may substitute and appoint one or more successor trustees, as provided in Section 57-1-22.

(b) The designation of a trustee under Subsection (3)(a)(ii) shall be disclosed in the notice of default that the trustee gives to commence the foreclosure, and need not be stated in a separate instrument.

(4) (a) The redemption of property that is the subject of a tax sale under Subsection (1)(b) is governed by Title 59, Chapter 2, Part 13, Collection of Taxes.

(b) The redemption of property that is the subject of a foreclosure proceeding under Subsection (1)(c) is governed by Title 57, Chapter 1, Conveyances.

(5) (a) The remedies provided for in this part for the collection of an assessment and the enforcement of an assessment lien are cumulative.

(b) The use of one or more of the remedies provided for in this part may not be considered to deprive the local entity of any other remedy or means of collecting the assessment or enforcing the assessment lien.

Enacted by Chapter 329, 2007 General Session

11-42-503. Local entity payments to avoid a default in local entity obligations -- Reimbursement of payments when property sold at tax or foreclosure sale.

(1) To avoid a default in the payment of outstanding local entity obligations, a local entity may pay:

(a) the delinquent amount due, plus interest, penalties, and costs;

(b) the amounts described in Subsection (1)(a) and the full balance of an assessment, if accelerated; or

(c) any part of an assessment or an installment of an assessment that becomes due during the redemption period.

(2) A local entity may:

(a) pay the amounts under Subsection (1) from a guaranty fund or a reserve fund, or from any money legally available to the local entity; and

(b) charge the amounts paid against the delinquent property.

(3) (a) Upon the tax sale or foreclosure of the property charged as provided in Subsection (2):

(i) all amounts that the local entity paid shall be included in the sale price of the property recovered in the sale; and

(ii) the local entity's guaranty fund, reserve fund, or other source of money paid under Subsection (2)(a), as the case may be, shall be reimbursed for those amounts.

(b) If the property charged as provided in Subsection (2) is sold to the local entity at the tax sale or foreclosure and additional assessment installments become due, the local entity:

(i) may pay the additional installments from the guaranty fund or reserve fund, as the case may be, or from any legally available money;

(ii) shall recover, in a sale of the property, the amount of the installments paid; and

(iii) shall reimburse the guaranty fund or reserve fund when the property is sold.

Enacted by Chapter 329, 2007 General Session

11-42-504. Assessments on property that the local entity acquires at tax sale or foreclosure -- Transferring title of property in lieu of paying assessments -- Reimbursement.

(1) (a) Each local entity that purchases property at a tax sale or foreclosure under this part shall pay into the assessment fund all applicable annual installments of assessments and interest for as long as the local entity owns the property.

(b) A local entity may make payments required under this Subsection (1) from the guaranty fund or reserve fund.

(2) (a) In lieu of making payments under Subsection (1), a local entity may elect to transfer title of the property to the owners of all outstanding assessment bonds, refunding assessment bonds, interim warrants, or bond anticipation notes as payment in full for all delinquent assessments with respect to the property.

(b) If a local entity transfers title to property as provided in Subsection (2)(a) or sells property it has received from a tax sale or foreclosure, the selling price may not be less than the amount sufficient to reimburse the local entity for all amounts the local entity paid with respect to an assessment on the property, including an amount sufficient to reimburse the guaranty fund or reserve fund, as the case may be, for all amounts paid from the fund for delinquent assessments or installments of assessments relating to the property, plus interest, penalties, and costs.

(c) Each local entity that sells property it has received from a tax sale or foreclosure shall place the money it receives from the sale into the guaranty fund, reserve fund, or other local entity fund, as the case may be, to the extent of full reimbursement as required in this section.

Enacted by Chapter 329, 2007 General Session

11-42-505. Default in the payment of an installment of an assessment -- Interest and costs -- Restoring the property owner to the right to pay installments.

(1) If an assessment is payable in installments and a default occurs in the payment of an installment when due, the governing body may:

(a) declare the delinquent amount to be immediately due and subject to collection as provided in this chapter;

(b) accelerate payment of the total unpaid balance of the assessment and declare the whole of the unpaid principal and the interest then due to be immediately due and payable; and

(c) charge and collect all costs of collection, including attorney fees.

(2) Interest shall accrue from the date of delinquency on all applicable amounts under Subsections (1)(a) and (b) until paid in full.

(3) Any interest assessed for or collection costs charged under this section shall be:

(a) the same as apply to delinquent real property taxes for the year in which the balance of the fee or charge becomes delinquent; or

(b) as the governing body determines.

(4) Notwithstanding Subsection (1), a property owner shall be restored to the right to pay an assessment in installments in the same manner as if no default had occurred if the owner pays the amount of all unpaid installments that are past due, with interest, collection and foreclosure costs, and administrative, redemption, and other fees, including attorney fees, before:

(a) the final date that payment may be legally made under a final sale or foreclosure of property to collect delinquent assessment installments, if collection is enforced under Title 59, Chapter 2, Part 13, Collection of Taxes; or

(b) the end of the three-month reinstatement period provided by Section 57-1-31, if collection is enforced through the method of foreclosing trust deeds.

Enacted by Chapter 329, 2007 General Session

11-42-506. Release and discharge of assessment lien -- Notice of dissolution of assessment area.

(1) (a) Upon an assessment on a parcel of property having been paid in full, the local entity shall file, in the office of the recorder of the county in which the property is located, a release and discharge of the assessment lien on that property.

(b) Each release and discharge under Subsection (1)(a) shall:

(i) include a legal description of the affected property; and

(ii) comply with other applicable requirements for recording a document.

(2) (a) Upon all assessments levied within an assessment area having been paid in full, or upon payment in full having been provided for, the local entity shall file, in the office of the recorder of the county in which the property within the assessment area is located, a notice of the dissolution of the assessment area.

(b) Each notice under Subsection (2)(a) shall:

(i) include a legal description of the property assessed within the assessment area; and

(ii) comply with all other applicable requirements for recording a document.

Enacted by Chapter 329, 2007 General Session

11-42-601. Interim warrants.

(1) A local entity may issue interim warrants against an assessment area.

(2) An interim warrant may be in any amount up to:

(a) as portions of the work on improvements in an assessment area are completed, 90% of the value of the completed work, as estimated by the local entity's project engineer;

(b) 100% of the value of the work completed, after completion of the work and acceptance of the work by the local entity's project engineer; and

(c) the price of property, the acquisition of which is required for an improvement.

(3) The governing body may:

(a) issue interim warrants at not less than par value in a manner the governing body determines; and

(b) use the proceeds from the issuance of interim warrants to pay:

(i) the contract price;

(ii) the property price; and

(iii) related costs, including overhead costs.

(4) (a) Interim warrants shall bear interest from the date of their issuance until paid.

(b) (i) The governing body shall:

(A) approve the interest rate applicable to interim warrants; and

(B) fix a maturity date for each interim warrant.

(ii) The interest rate applicable to interim warrants may be fixed or variable or a combination of fixed and variable.

(iii) If interim warrants carry a variable interest rate, the governing body shall specify the basis upon which the rate is to be determined, the manner in which the rate is to be adjusted, and a maximum interest rate.

(iv) A local entity may provide for interest on interim warrants to be paid semiannually, annually, or at maturity.

(v) If an interim warrant matures before the local entity has available sources of payment under Section 11-42-603, the local entity may authorize the issuance of a new interim warrant to pay the principal and interest on the maturing warrant.

(c) The local entity shall include interest accruing on interim warrants in the cost of improvements in the assessment area.

(5) A local entity may purchase some or all of the interim warrants it has issued using the local entity's general fund money.

Enacted by Chapter 329, 2007 General Session

11-42-602. Bond anticipation notes.

(1) A local entity may by resolution authorize the issuance of bond anticipation notes.

(2) A local entity may use the proceeds from the issuance of bond anticipation notes to pay:

(a) the estimated acquisition and contract price;

(b) the property price;

(c) capitalized interest; and

(d) related costs, including overhead costs.

(3) Each resolution authorizing the issuance of bond anticipation notes shall:

(a) describe the bonds in anticipation of which the bond anticipation notes are to be issued;

(b) specify the principal amount and maturity dates of the notes; and

(c) specify the interest rate applicable to the notes.

(4) (a) The interest rate on bond anticipation notes issued under this section may be fixed, variable, or a combination of fixed and variable, as determined by the governing body.

(b) If bond anticipation notes carry a variable interest rate, the governing body shall specify the basis upon which the rate is to be determined, the manner in which the rate is to be adjusted, and a maximum interest rate.

(c) A local entity may provide for interest on bond anticipation notes to be paid semiannually, annually, or at maturity.

(5) A local entity may:

(a) issue and sell bond anticipation notes in a manner and at a price, either at, below, or above face value, as the governing body determines by resolution; and

(b) make bond anticipation notes redeemable prior to maturity, at the governing body's option and in the manner and upon the terms fixed by the resolution authorizing their issuance.

(6) Bond anticipation notes shall be executed, be in a form, and have details and terms as provided in the resolution authorizing their issuance.

(7) A local entity may issue bond anticipation notes to refund bond anticipation notes previously issued by the local entity.

(8) A local entity may include interest accruing on bond anticipation notes in the cost of improvements in an assessment area.

Amended by Chapter 246, 2009 General Session

11-42-603. Sources of payment for interim warrants and bond anticipation notes.

Each local entity that has issued interim warrants or bond anticipation notes shall pay the warrants or notes from:

(1) proceeds from the sale of assessment bonds;

(2) cash the local entity receives from the payment for improvements;

(3) assessments;

(4) improvement revenues that are not pledged to the payment of assessment bonds;

(5) proceeds from the sale of interim warrants or bond anticipation notes; or

(6) the local entity's guaranty fund or, if applicable, the reserve fund.

Amended by Chapter 246, 2009 General Session

11-42-604. Notice regarding resolution or ordinance authorizing interim warrants or bond anticipation notes -- Complaint contesting warrants or notes -- Prohibition against contesting warrants and notes.

(1) A local entity may publish notice, as provided in Subsection (2), of a resolution or ordinance that the governing body has adopted authorizing the issuance of interim warrants or bond anticipation notes.

(2) (a) If a local entity chooses to publish notice under Subsection (1)(a), the notice shall:

(i) be published:

(A) in a newspaper of general circulation within the local entity; and

(B) as required in Section 45-1-101; and

(ii) contain:

(A) the name of the issuer of the interim warrants or bond anticipation notes;

(B) the purpose of the issue;

(C) the maximum principal amount that may be issued;

(D) the maximum length of time over which the interim warrants or bond anticipation notes may mature;

(E) the maximum interest rate, if there is a maximum rate; and

(F) the times and place where a copy of the resolution or ordinance may be examined, as required under Subsection (2)(b).

(b) The local entity shall allow examination of the resolution or ordinance authorizing the issuance of the interim warrants or bond anticipation notes at its office during regular business hours.

(3) Any person may, within 30 days after publication of a notice under Subsection (1), file a verified, written complaint in the district court of the county in which the person resides, contesting the regularity, formality, or legality of the interim warrants or bond anticipation notes issued by the local entity or the proceedings relating to the issuance of the interim warrants or bond anticipation notes.

(4) After the 30-day period under Subsection (3), no person may contest the regularity, formality, or legality of the interim warrants or bond anticipation notes issued by a local entity under the resolution or ordinance that was the subject of the notice under Subsection (1), or the proceedings relating to the issuance of the interim warrants or bond anticipation notes.

Amended by Chapter 388, 2009 General Session

11-42-605. Local entity may authorize the issuance of assessment bonds -- Limit on amount of bonds -- Features of assessment bonds.

(1) After the 25-day prepayment period under Subsection 11-42-411(6) has passed or, if the 25-day prepayment period is waived under Section 11-42-104, after the assessment resolution or ordinance takes effect, a local entity may authorize the issuance of bonds to pay the costs of improvements in an assessment area, and other related costs, against the funds that the local entity will receive because of an assessment in an assessment area.

(2) A local entity may, by resolution or ordinance, delegate to one or more officers of the issuer the authority to:

(a) in accordance with and within the parameters set forth in the resolution or ordinance, approve the final interest rate or rates, price, principal amount, maturity or maturities, redemption features, and other terms of the bond; and

(b) approve and execute all documents relating to the issuance of a bond.

(3) The aggregate principal amount of bonds authorized under Subsection (1) may not exceed the unpaid balance of assessments at the end of the 25-day prepayment period under Subsection 11-42-411(6).

(4) Assessment bonds issued under this section:

(a) are fully negotiable for all purposes;

(b) shall mature at a time that does not exceed the period that installments of assessments in the assessment area are due and payable, plus one year;

(c) shall bear interest at the lowest rate or rates reasonably obtainable;

(d) may not be dated earlier than the effective date of the assessment ordinance;

(e) shall be payable at the place, shall be in the form, and shall be sold in the manner and with the details that are provided in the resolution authorizing the issuance of the bonds;

(f) shall be issued in registered form as provided in Title 15, Chapter 7, Registered Public Obligations Act; and

(g) provide that interest be paid semiannually, annually, or at another interval as specified by the governing body.

(5) (a) A local entity may:

(i) (A) provide that assessment bonds be callable for redemption before maturity; and

(B) fix the terms and conditions of redemption, including the notice to be given and any premium to be paid;

(ii) subject to Subsection (5)(b), require assessment bonds to bear interest at a fixed or variable rate, or a combination of fixed and variable rates;

(iii) specify terms and conditions under which:

(A) assessment bonds bearing interest at a variable interest rate may be converted to bear interest at a fixed interest rate; and

(B) the local entity agrees to repurchase the bonds;

(iv) engage a remarketing agent and indexing agent, subject to the terms and conditions that the governing body agrees to; and

(v) include all costs associated with assessment bonds, including any costs resulting from any of the actions the local entity is authorized to take under this section, in an assessment levied under Section 11-42-401.

(b) If assessment bonds carry a variable interest rate, the local entity shall specify:

(i) the basis upon which the variable rate is to be determined over the life of the bonds;

(ii) the manner in which and schedule upon which the rate is to be adjusted; and

(iii) a maximum rate that the bonds may carry.

(6) (a) Nothing in this part may be construed to authorize the issuance of assessment bonds to pay for the cost of ordinary repairs to pavement, sewers, drains, curbing, gutters, or sidewalks.

(b) Notwithstanding Subsection (6)(a), a local entity may issue assessment bonds to pay for extraordinary repairs to pavement, sewers, drains, curbing, gutters, or sidewalk.

(c) A local entity's governing body may define by resolution or ordinance what constitutes ordinary repairs and extraordinary repairs for purposes of this Subsection (6).

(d) Nothing in this Subsection (6) may be construed to limit a local entity from levying an assessment within an assessment area to pay operation and maintenance costs as described in a notice under Section 11-42-402.

(7) If a local entity has issued interim warrants under Section 11-42-601 or bond anticipation notes under Section 11-42-602 in anticipation of assessment bonds that the local entity issues under this part, the local entity shall provide for the retirement of the interim warrants or bond anticipation notes contemporaneously with the issuance of the assessment bonds.

Amended by Chapter 145, 2011 General Session

11-42-606. Assessment bonds are not a local entity's general obligation -- Liability and responsibility of a local entity that issues assessment bonds.

(1) Assessment bonds are not a general obligation of the local entity that issues them.

(2) A local entity that issues assessment bonds:

(a) may not be held liable for payment of the bonds except to the extent of:

(i) funds created and received from assessments against which the bonds are issued;

(ii) improvement revenues; and

(iii) the local entity's guaranty fund under Section 11-42-701 or, if applicable, reserve fund under Section 11-42-702; and

(b) is responsible for:

(i) the lawful levy of all assessments;

(ii) the collection and application of improvement revenues, as provided in this chapter;

(iii) the creation and maintenance of a guaranty fund or, if applicable, a reserve fund; and

(iv) the faithful accounting, collection, settlement, and payment of:

(A) assessments and improvement revenues; and

(B) money in a guaranty fund or, if applicable, a reserve fund.

(3) If a local entity illegally assesses property that is exempt from assessment, the local entity:

(a) is liable to the holders of assessment bonds for the payment of the illegal assessment; and

(b) shall pay the amount for which it is liable under Subsection (3)(a) from the local entity's general fund or other legally available money.

Enacted by Chapter 329, 2007 General Session

11-42-607. Refunding assessment bonds.

(1) A local entity may, by a resolution adopted by the governing body, authorize the issuance of refunding assessment bonds as provided in this section, in whole or in part, whether at or before the maturity of the prior bonds, at stated maturity, upon redemption, or declaration of maturity.

(2) (a) Subject to Subsection (2)(b), the issuance of refunding assessment bonds is governed by Title 11, Chapter 27, Utah Refunding Bond Act.

(b) If there is a conflict between a provision of Title 11, Chapter 27, Utah Refunding Bond Act, and a provision of this part, the provision of this part governs.

(3) In issuing refunding assessment bonds, the local entity shall require the refunding assessment bonds and interest on the bonds to be payable from and secured, to the extent the prior bonds were payable from and secured, by:

(a) (i) the same assessments; or

(ii) the reduced assessments adopted by the governing body under Section 11-42-608;

(b) the guaranty fund or, if applicable, reserve fund; and

(c) improvement revenues.

(4) Refunding assessment bonds:

(a) shall be payable solely from the sources described in Subsection (3);

(b) shall mature no later than the date that is one year after the final maturity of the prior bonds;

(c) may not mature at a time or bear interest at a rate that will cause the local entity to be unable to pay, from the sources listed in Subsection (3), the bonds when due;

(d) shall bear interest as the governing body determines, subject to the provisions of Section 11-42-605 relating to interest;

(e) may be issued to pay one or more issues of the local entity's prior bonds; and

(f) if issued to refund two or more issues of prior bonds, may be issued in one or more series.

(5) A local entity may provide for the payment of incidental costs associated with refunding assessment bonds:

(a) by advancing money from the local entity's general fund or other fund, if the local entity's governing body:

(i) determines that the advance is in the best interests of the local entity and its citizens, including the owners of property within the assessment area; and

(ii) provides that the assessments, interest on assessments, and improvement revenue from which the prior bonds are payable not be reduced during the period necessary to provide funds from those sources to reimburse the local entity with interest at the same rate that applies to the assessments;

(b) from premiums that the local entity receives from the sale of refunding assessment bonds;

(c) from earnings on the investment of refunding assessment bonds pending their use to refund prior bonds;

(d) from any other sources legally available to the local entity for this purpose; or

(e) from any combination of Subsections (5)(a) through (d).

Enacted by Chapter 329, 2007 General Session

11-42-608. Reducing assessments after issuance of refunding assessment bonds.

(1) Each local entity that issues refunding assessment bonds shall adopt a resolution or ordinance amending the assessment resolution or assessment ordinance previously adopted.

(2) Each amending resolution or ordinance under Subsection (1) shall:

(a) reduce, as determined by the local entity's governing body:

(i) the assessments levied under the previous resolution or ordinance;

(ii) the interest payable on the assessments levied under the previous resolution or ordinance; or

(iii) both the assessments levied under the previous resolution or ordinance and the interest payable on those assessments;

(b) allocate the reductions under Subsection (2)(a) so that the then unpaid assessments levied against benefitted property within the assessment area and the

unpaid interest on those assessments receive a proportionate share of the reductions;

(c) (i) state the amounts of the reduced payment obligation for each property assessed in the prior resolution or ordinance; or

(ii) incorporate by reference a revised assessment list approved by the governing body containing the reduced payment obligations; and

(d) state the effective date of any reduction in the assessment levied in the prior resolution or ordinance.

(3) A resolution or ordinance under Subsection (2) is not required to describe each block, lot, part of block or lot, tract, or parcel of property assessed.

(4) Each reduction under Subsection (2)(a) shall be the amount by which the principal or interest or both payable on the refunding assessment bonds, after accounting for incidental refunding costs associated with the refunding assessment bonds, is less than the amount of principal or interest or both payable on the prior bonds.

(5) A reduction under Subsection (2)(a) does not apply to an assessment or interest paid before the reduction.

(6) A resolution or ordinance under Subsection (2) may not become effective before the date when all principal, interest, any redemption premium on the prior bonds, and any advances made under Subsection 11-42-607(5)(a) are fully paid or legally considered to be paid.

(7) (a) At least 21 days before the first payment of a reduced assessment becomes due, each local entity shall provide notice of the reduced payment obligations resulting from adoption of a resolution or ordinance under Subsection (2) by mailing, postage prepaid, a notice to each owner of benefitted property within the assessment area at the owner's mailing address.

(b) Each notice under Subsection (7)(a) shall:

(i) identify the property subject to the assessment; and

(ii) state the amount of the reduced payment obligations that will be payable after the applicable date stated in the resolution or ordinance under Subsection (1).

(c) A notice under Subsection (7)(a) may:

(i) contain other information that the governing body considers appropriate; and

(ii) be included with any other notice regarding the payment of an assessment and interest that the local entity sends to property owners in the assessment area within the time and addressed as required under Subsection (7)(a).

(d) The validity of a resolution or ordinance under Subsection (1) is not affected by:

(i) a local entity's failure to provide notice as required under this Subsection (7); or

(ii) a defect in the content of the notice or the manner or time in which the notice was provided.

(e) Whether or not notice under this Subsection (7) is properly given, no other notice is required to be given to owners of property within an assessment area in connection with the issuance of refunding assessment bonds.

(8) Except for the amount of reduction to a prior assessment or interest on a prior assessment, neither the issuance of refunding assessment bonds nor the adoption of a resolution or ordinance under Subsection (1) affects:

(a) the validity or continued enforceability of a prior assessment or interest on the assessment; or

(b) the validity, enforceability, or priority of an assessment lien.

(9) Each reduction of a prior assessment and the interest on the assessment shall continue to exist in favor of the refunding assessment bonds.

(10) Even after payment in full of the prior bonds that are refunded by refunding assessment bonds, an assessment lien continues to exist to secure payment of the reduced payment obligations, the penalties and costs of collection of those obligations, and the refunding assessment bonds in the same manner, to the same extent, and with the same priority as the assessment lien.

(11) A lien securing a reduced payment obligation from which refunding assessment bonds are payable and by which the bonds are secured is subordinate to an assessment lien securing the original or prior assessment and prior bonds until the prior bonds are paid in full or legally considered to be paid in full.

(12) Unless prior bonds are paid in full simultaneously with the issuance of refunding assessment bonds, the local entity shall:

(a) irrevocably set aside the proceeds of the refunding assessment bonds in an escrow or other separate account; and

(b) pledge that account as security for the payment of the prior bonds, refunding assessment bonds, or both.

(13) This part applies to all refunding assessment bonds:

(a) whether already issued or yet to be issued; and

(b) even though the prior bonds they refunded were issued under prior law, whether or not that law is currently in effect.

Enacted by Chapter 329, 2007 General Session

11-42-609. Validation of previously issued obligations.

(1) Subject to Subsection (2):

(a) all local entity obligations issued by a local entity before April 30, 2007 are:

(i) validated, ratified, and confirmed; and

(ii) declared to constitute legally binding obligations in accordance with their terms; and

(b) all proceedings before April 30, 2007 related to the authorization and issuance of local entity obligations are validated, ratified, and confirmed.

(2) Nothing in this section may be construed to affect the validity of local entity obligations, a guaranty fund, or a reserve fund whose legality is being contested on April 30, 2007.

(3) (a) This chapter applies to all local entity obligations issued after April 30, 2007, even though proceedings were taken before that date under provisions of the law then in effect but repealed or modified on or after that date.

(b) Proceedings taken as described in Subsection (3)(a) under the law in effect before April 30, 2007 are validated, ratified, and confirmed, subject to question only as provided in Section 11-42-106.

(4) The validity of local entity obligations issued before April 30, 2007 is not affected by changes to the law under which they were issued that become effective on

or after April 30, 2007.

Enacted by Chapter 329, 2007 General Session

11-42-701. Guaranty fund.

(1) Except as provided in Section 11-42-702, each local entity that issues assessment bonds shall:

(a) create a guaranty fund, as provided in this section, to secure bonds, to the extent of the money in the fund; and

(b) fund the guaranty fund by:

(i) appropriations from the local entity's general fund;

(ii) a property tax levy of not to exceed .0002 per dollar of taxable value of taxable property within the local entity's jurisdictional boundaries;

(iii) issuing general obligation bonds; or

(iv) appropriations from other sources as determined by the local entity's governing body.

(2) A tax levied by a local entity under Subsection (1)(b)(ii) to fund a guaranty fund is not included for purposes of calculating the maximum levy limitation applicable to the local entity.

(3) A local entity may covenant for the benefit of bond holders that, as long as the bonds are outstanding and unpaid, the local entity will:

(a) create a guaranty fund as provided in this section;

(b) (i) to the extent legally permissible and by any of the methods described in Subsection (1)(b), transfer each year to the guaranty fund an amount of money up to the amount the local entity would collect by levying a tax of .0002 per dollar of taxable value of taxable property within the local entity until the balance in the guaranty fund equals 10% of the amount of all outstanding bonds; and

(ii) in subsequent years transfer to the guaranty fund the amount necessary to replenish or maintain the guaranty fund at 10% of the amount of all outstanding bonds; and

(c) invest the funds on deposit in the guaranty fund as provided in Title 51, Chapter 7, State Money Management Act.

(4) A local entity may create subaccounts within a guaranty fund for each issue of outstanding assessment bonds and refunding assessment bonds in a manner that the local entity's governing body considers appropriate to allocate among the bond issues the securities held in and interest earnings on the guaranty fund for purposes of complying with federal law.

(5) A local entity may transfer to its general fund any money in its guaranty fund that exceeds 10% of the amount of all of the local entity's outstanding assessment bonds and refunding assessment bonds that are secured by the guaranty fund.

(6) For purposes of Subsections (3)(b) and (5), refunding assessment bonds may not be considered outstanding until the principal of and interest and any redemption premiums on the prior bonds that are refunded by the refunding assessment bonds are fully paid or legally considered to be paid.

Enacted by Chapter 329, 2007 General Session

11-42-702. Reserve fund.

(1) In lieu of creating and funding a guaranty fund under Section 11-42-701 for an issue of assessment bonds or refunding assessment bonds, a local entity may establish a reserve fund to secure the issue.

(2) If a local entity establishes a reserve fund under this section:

(a) the bonds secured by the reserve fund are not secured by a guaranty fund under Section 11-42-701;

(b) the local entity is not required to fund a guaranty fund under Section 11-42-701 for those bonds; and

(c) unless otherwise provided in this part or in the proceedings authorizing the issuance of bonds, the provisions of this part regarding a guaranty fund have no application to the bonds that are secured by the reserve fund.

(3) Each local entity that establishes a reserve fund shall:

(a) fund and replenish the reserve fund in the amounts and manner provided in the proceedings authorizing the issuance of the bonds that are secured by the reserve fund; and

(b) invest the funds on deposit in the reserve fund as provided in Title 51, Chapter 7, State Money Management Act.

(4) (a) Subject to Subsection (4)(b), a local entity may replenish a reserve fund under this section by any of the methods described in Subsection 11-42-701(1)(b).

(b) The proceedings authorizing the issuance of assessment bonds or refunding assessment bonds shall provide that if a local entity uses any of the methods described in Subsection 11-42-701(1)(b) to replenish a reserve fund, the local entity shall be reimbursed, with interest at a rate that the local entity determines, with money that the local entity receives from foreclosing on delinquent property.

(5) Upon the retirement of bonds secured by a reserve fund, the local entity shall:

(a) terminate the reserve fund; and

(b) disburse all remaining money in the fund as provided in the proceedings authorizing the issuance of the bonds.

Amended by Chapter 246, 2009 General Session

11-42-703. Payment from guaranty fund or reserve fund if insufficient funds available in the assessment fund -- Payment by warrant from guaranty fund or reserve fund -- Subrogation.

(1) If a bond is presented to the local entity for payment at a time when there is insufficient money in the assessment fund to pay the amount due, the local entity shall pay the amount due from the guaranty fund or, if applicable, reserve fund.

(2) If there is insufficient money in the guaranty fund or, if applicable, the reserve fund to pay the amount due under Subsection (1), the local entity may pay by a warrant drawn against the guaranty fund or, if applicable, reserve fund.

(3) If a local entity pays from its guaranty fund or reserve fund any principal or interest owing under a bond:

(a) the local entity is subrogated to the rights of the bond holders; and

(b) the proceeds from the bond shall become part of the guaranty fund or

reserve fund, as the case may be.

Enacted by Chapter 329, 2007 General Session

11-42-704. Transfers from local entity funds to replenish guaranty fund or reserve fund.

If the guaranty fund or, if applicable, the reserve fund has insufficient money for the local entity to purchase property on which it bids at a sale under Part 5, Assessment Liens, for delinquent assessments, the local entity may transfer or appropriate money from its general fund or other available sources, as the governing body determines, to replenish the guaranty fund or reserve fund.

Enacted by Chapter 329, 2007 General Session

11-42-705. Warrants to meet guaranty fund and reserve fund liabilities -- Levy to pay warrants authorized -- Limit on the levy.

(1) A local entity may issue warrants, bearing interest at a rate determined by the governing body, against a guaranty fund or reserve fund to meet any financial liabilities accruing against the fund.

(2) (a) If a local entity issues warrants under Subsection (1), the local entity shall, subject to Subsection (2)(b), include in its next annual tax levy an amount sufficient, with other guaranty fund or reserve fund resources, to pay all issued and outstanding warrants under Subsection (1) for all assessment areas within the local entity.

(b) A levy under Subsection (2)(a):

(i) may not exceed .0002 per dollar of taxable value of taxable property in the local entity; and

(ii) is exempt from the statutory limit applicable to the local entity's property tax levy.

Enacted by Chapter 329, 2007 General Session

11-42-706. Validation of prior guaranty fund or reserve fund proceedings.

(1) Subject to Subsection (2), all proceedings before April 30, 2007 related to the creation, maintenance, and use of a guaranty fund or reserve fund are validated, ratified, and confirmed.

(2) Nothing in this section may be construed to affect the validity of a guaranty fund or reserve fund whose legality is being contested on April 30, 2007.

Enacted by Chapter 329, 2007 General Session

11-43-101. Title.

This chapter is known as the "Memorials and Public Land Act."

Enacted by Chapter 118, 2007 General Session

11-43-102. Memorials by political subdivisions.

(1) As used in this section:

(a) "Political subdivision" means any county, city, town, or school district.

(b) "Political subdivision" does not mean a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.

(2) A political subdivision may authorize the use or donation of the political subdivision's land for the purpose of maintaining, erecting, or contributing to the erection or maintenance of a memorial to commemorate those individuals who have:

(a) participated in or have given their lives in any of the one or more wars or military conflicts in which the United States of America has been a participant; or

(b) given their lives in association with public service on behalf of the state or the political subdivision, including firefighters, peace officers, highway patrol officers, or other public servants.

(3) The use or donation of a political subdivision's land in relation to a memorial described in Subsection (2) may include:

(a) using or appropriating public funds for the purchase, development, improvement, or maintenance of public land on which a memorial is located or established;

(b) using or appropriating public funds for the erection, improvement, or maintenance of a memorial;

(c) donating or selling public land for use in relation to a memorial; or

(d) authorizing the use of a political subdivision's land for a memorial that is funded or maintained in part or in full by another public or private entity.

(4) The political subdivision may specify the form, placement, and design of a memorial that is subject to this section.

Amended by Chapter 360, 2008 General Session

11-44-101. Title.

This chapter is known as the "Facility Energy Efficiency Act."

Enacted by Chapter 244, 2010 General Session

11-44-102. Definitions.

As used in this chapter:

(1) "Cost savings" means a decrease in an expenditure, including a future replacement expenditure, by a political subdivision resulting from an energy efficiency measure adopted under this chapter.

(2) (a) "Energy efficiency measure" means an action taken by a political subdivision that reduces the political subdivision's:

(i) energy consumption;

(ii) water use; or

(iii) sewage use.

(b) "Energy efficiency measure" includes:

(i) insulation installed in a wall, roof, floor, foundation, or heating and cooling

distribution system;

(ii) a storm window or door, multiglazed window or door, heat absorbing or heat reflective glazed and coated window or door system, additional glazing, or reduction in glass area;

(iii) an automatic energy control system;

(iv) a heating, ventilating, or air conditioning and distribution system modification or replacement in a facility;

(v) caulking and weatherstripping;

(vi) a replacement or modification of a lighting fixture to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility unless the increase in illumination is necessary to conform to the applicable building code for the proposed lighting system;

(vii) an energy recovery system;

(viii) a cogeneration system that produces steam or another form of energy for use primarily within a facility;

(ix) a renewable energy or alternate energy system;

(x) a change in operation or maintenance practice;

(xi) a procurement of a low-cost energy supply, including electricity, natural gas, or water;

(xii) an indoor air quality improvement that conforms to applicable building code requirements;

(xiii) a daylighting system;

(xiv) a building operation program that provides cost savings, including computerized energy management and consumption tracking programs or staff and occupant training; or

(xv) a service to reduce utility costs by identifying utility errors and optimizing rate schedules.

(3) "Energy savings agreement" means a contract between a political subdivision and a qualified energy service provider for evaluation, recommendation, and implementation of one or more energy efficiency measures.

(4) (a) "Facility" means a building, structure, or other improvement that is constructed on property owned by a political subdivision.

(b) "Facility" does not mean a privately owned structure that is located on property owned by a political subdivision.

(5) "Facility energy efficiency program" means a program established by a political subdivision under this chapter to adopt an energy efficiency measure.

(6) "Qualified energy service provider" means a person who:

(a) has a record of successful energy savings agreements; or

(b) has:

(i) experience in the design, implementation, and installation of energy efficiency measures;

(ii) technical capabilities to ensure that an energy efficient measure generates cost savings; and

(iii) the ability to secure the financing necessary to support the proposed energy efficiency measure.

Enacted by Chapter 244, 2010 General Session

11-44-201. Political subdivision responsibilities -- State responsibilities.

(1) A political subdivision may:

(a) enter into an energy savings agreement;

(b) develop and administer a facility energy efficiency program;

(c) analyze energy consumption by the political subdivision;

(d) designate a staff member who is responsible for a facility energy efficiency program; and

(e) provide the governing body of the political subdivision with information regarding the facility energy efficiency program.

(2) The following entities may provide information, technical resources, and other assistance to a political subdivision acting under this chapter:

(a) the Utah Geological Survey, created in Section 79-3-201;

(b) the State Board of Education, under Title 53A, Chapter 1, Administration of Public Education at the State Level;

(c) the Division of Purchasing and General Services, created in Section 63A-2-101; and

(d) the Division of Facilities Construction and Management, created in Section 63A-5-201.

Enacted by Chapter 244, 2010 General Session

11-44-202. Types of agreements.

Notwithstanding Section 63G-6a-1205, a political subdivision shall structure an energy service agreement as a guaranteed energy savings performance contract, which shall include:

(1) the design and installation of an energy efficiency measure, if applicable;

(2) operation and maintenance of any energy efficiency measure implemented; and

(3) guaranteed annual cost savings that meet or exceed the total annual contract payments by the political subdivision under the contract, including financing charges incurred by the political subdivision over the life of the contract.

Amended by Chapter 347, 2012 General Session

11-44-203. Length of agreements.

A political subdivision may only enter into an energy savings agreement for more than one year if the political subdivision finds that the amount the political subdivision would spend on the energy efficiency measure will not exceed the amount of the cost savings over 20 years from the date of installation of the energy efficiency measure.

Enacted by Chapter 244, 2010 General Session

11-44-301. Selection.

(1) A political subdivision shall follow the procedures outlined in Title 63G,

Chapter 6a, Utah Procurement Code, when selecting a qualified energy service provider.

(2) The Division of Purchasing shall maintain a list of qualified energy service providers.

(3) The qualified energy service provider selected from the bid process shall prepare an investment grade energy audit, which shall become part of the final contract between the political subdivision and the qualified energy service provider.

(4) The audit shall include:

(a) a detailed description of the energy efficiency measure;

(b) an estimated cost; and

(c) a projected cost savings.

Amended by Chapter 347, 2012 General Session

11-44-302. Annual reports.

During the term of an energy savings agreement, the qualified energy service provider shall submit an annual report to the political subdivision that provides the cost savings attributable to the energy efficiency measures taken by the political subdivision.

Enacted by Chapter 244, 2010 General Session

11-45-101. Title.

This chapter is known as "Loan Program for Energy Efficiency Projects."

Enacted by Chapter 72, 2010 General Session

11-45-102. Definitions.

As used in this section:

(1) "Energy code" means the energy efficiency code adopted under Section 15A-1-204.

(2) (a) "Energy efficiency project" means:

(i) for an existing building, a retrofit to improve energy efficiency; or

(ii) for a new building, an enhancement to improve energy efficiency beyond the minimum required by the energy code.

(b) "Energy efficiency projects" include the following expenses:

(i) construction;

(ii) engineering;

(iii) energy audit; or

(iv) inspection.

(3) "Fund" means the Energy Efficiency Fund created in Part 2, Energy Efficiency Fund.

(4) "Office" means the Office of Energy Development created in Section 63M-4-401.

(5) "Political subdivision" means a county, city, town, or school district.

Amended by Chapter 37, 2012 General Session

11-45-201. Energy Efficiency Fund -- Creation.

(1) There is created a revolving loan fund known as the Energy Efficiency Fund.

(2) The fund shall consist of:

(a) money appropriated to it by the Legislature;

(b) money received for the repayment of loans made from the fund;

(c) money made available to the state for energy efficiency from any source; and

(d) interest earned on the fund.

Renumbered and Amended by Chapter 72, 2010 General Session

11-45-202. Criteria for loans.

(1) The office shall make a loan from the fund to a political subdivision only to finance an energy efficiency project.

(2) The office may not make a loan from the fund:

(a) to finance a political subdivision's compliance with the energy code in the construction of a new building; or

(b) with a term of less than two years or more than 12 years.

Amended by Chapter 37, 2012 General Session

11-45-203. Applications.

(1) A political subdivision shall submit an application to the office in the form and containing the information that the office requires, which shall include the plans and specifications for the proposed energy efficiency project.

(2) (a) In the application, a political subdivision may request a loan to cover all or part of the cost of an energy efficiency project.

(b) If an application is rejected, the office shall notify the applicant stating the reasons for the rejection.

Amended by Chapter 37, 2012 General Session

11-45-204. Energy advisor to make rules establishing criteria.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules to determine:

(a) eligibility for a loan; and

(b) priorities among energy efficiency projects.

(2) When making a rule to determine priorities among energy efficiency projects, the office may consider the following:

(a) possible additional sources of revenue;

(b) feasibility and practicality of an energy efficiency project;

(c) energy savings;

(d) annual energy cost savings;

(e) projected energy cost payback;

(f) financial need of the public facility owner;

(g) environmental and other benefits to the state and local community; and

(h) availability of federal funds.

Amended by Chapter 37, 2012 General Session

11-45-205. Approval of loan by energy advisor.

(1) In approving a loan, the office shall:

(a) review the loan application, plans, and specifications for the project;

(b) determine whether or not to grant the loan by applying the office's eligibility criteria; and

(c) if the loan is granted, prioritize the energy efficiency project by applying the office's priority criteria.

(2) The office may provide conditions on a loan to ensure that:

(a) the proceeds of the loan will be used to pay the cost of the project; and

(b) the project will be completed.

Amended by Chapter 37, 2012 General Session

11-46-101. Title.

This chapter is known as the "Animal Welfare Act."

Enacted by Chapter 130, 2011 General Session

11-46-102. Definitions.

As used in this chapter:

(1) "Animal" means a cat or dog.

(2) "Animal control officer" means any person employed or appointed by a county or a municipality who is authorized to investigate violations of laws and ordinances concerning animals, to issue citations in accordance with Utah law, and take custody of animals as appropriate in the enforcement of the laws and ordinances.

(3) "Animal shelter" means a facility or program:

(a) providing services for stray, lost, or unwanted animals, including holding and placing the animals for adoption, but does not include an institution conducting research on animals, as defined in Section 26-26-1; or

(b) a private humane society or private animal welfare organization.

(4) "Person" means an individual, an entity, or a representative of an entity.

Enacted by Chapter 130, 2011 General Session

11-46-103. Stray animals.

(1) Each municipal or county animal control officer shall hold any unidentified or unclaimed stray animal in safe and humane custody for a minimum of five business days after the time of impound and prior to making any final disposition of the animal.

(2) A record of each animal held shall be maintained. The record shall include:

(a) date of impound;

(b) date of disposition; and

(c) method of disposition, which may be:

(i) placement in an adoptive home or other transfer of the animal, which shall be

in compliance with Part 2, Animal Shelter Pet Sterilization Act;

(ii) return to its owner;

(iii) placement in a community cat program as defined in Section 11-46-302; or

(iv) euthanasia.

(3) An unidentified or unclaimed stray animal may be euthanized prior to the completion of the five working day minimum holding period to prevent unnecessary suffering due to serious injury or disease, if the euthanasia is in compliance with written agency or department policies and procedures, and with any local ordinances allowing the euthanasia.

(4) An unidentified or unclaimed stray animal shall be returned to its owner upon:

(a) proof of ownership;

(b) compliance with requirements of local animal control ordinances; and

(c) compliance with Part 2, Animal Shelter Pet Sterilization Act.

Enacted by Chapter 130, 2011 General Session

11-46-201. Title.

This part is known as the "Animal Shelter Pet Sterilization Act."

Enacted by Chapter 130, 2011 General Session

11-46-202. Definitions.

In addition to the definitions in Section 11-46-102, as used in this part:

(1) "Proof of sterilization" means a written document signed by a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act, stating:

(a) a specified animal has been sterilized;

(b) the date on which the sterilization was performed; and

(c) the location where the sterilization was performed.

(2) "Recipient" means the person to whom an animal shelter transfers an animal for adoption.

(3) "Sterilization deposit" means the portion of a fee charged by an animal shelter to a recipient or claimant of an unsterilized animal to ensure the animal is timely sterilized in accordance with an agreement between the recipient or the claimant and the animal shelter.

(4) "Sterilized" means that an animal has been surgically altered either by the spaying of a female animal or by the neutering of a male animal, so it is unable to reproduce.

(5) "Transfer" means that an animal shelter sells, gives away, places for adoption, or transfers an animal to a recipient.

Renumbered and Amended by Chapter 130, 2011 General Session

11-46-203. Animal shelters to transfer only sterilized animals, or shall require sterilization deposit.

(1) An animal shelter may not transfer an animal that has not been sterilized,

except as provided in Subsection (2) or Section 11-46-206.

(2) An animal shelter may transfer an animal for adoption that has not been sterilized only if the animal shelter:

(a) establishes a written agreement, executed by the recipient, stating the animal is not sterilized and the recipient agrees in writing to be responsible for ensuring the animal is sterilized:

(i) within 30 days after the agreement is signed, if the animal is six months of age or older; or

(ii) if the animal is younger than six months of age, within 30 days after the animal becomes six months of age; and

(b) receives from the recipient a sterilization deposit as provided under Section 11-46-204, the terms of which are part of the written agreement executed by the recipient in accordance with this section.

(3) The shelter may waive the sterilization deposit and release any unsterilized animal to a sponsor, as defined in Section 11-46-302, provided the sponsor is a non-profit organization that qualifies as being tax exempt under Section 501(c)(3) of the Internal Revenue Code and provides proof of sterilization within 30 days.

Renumbered and Amended by Chapter 130, 2011 General Session

11-46-204. Sterilization deposit.

(1) A sterilization deposit may be:

(a) a portion of the adoption fee or purchase price of the animal, which will enable the adopter to take the animal for sterilization to a veterinarian with whom the animal shelter has an agreement that the veterinarian will bill the animal shelter directly for the sterilization;

(b) a deposit that is:

(i) refundable to the recipient if proof of sterilization of the animal within the appropriate time limits under Section 11-46-203 is presented to the animal shelter not more than three months after the date the animal is sterilized; and

(ii) forfeited to the animal shelter if proof of sterilization is not presented to the animal shelter in compliance with Subsection (1)(b)(i); or

(c) a deposit under Section 11-46-206 required for an owner to claim an unsterilized animal impounded at the animal shelter.

(2) Sterilization deposits under Subsection (1) shall reflect the average reduced cost of a sterilization of an animal, based on the gender and weight of the animal, that is reasonably available in the area where the animal shelter is located, but the deposit may not be less than $25.

(3) If a female animal and her litter are transferred to one person, a sterilization deposit is required only for the female animal.

(4) All sterilization deposits forfeited or unclaimed under this section shall be retained by the animal shelter and used by the animal shelter only for:

(a) a program to sterilize animals, which may include a sliding scale fee program;

(b) a public education program to reduce and prevent overpopulation of animals and the related costs to local governments;

(c) a follow-up program to assure that animals transferred by the animal shelter are sterilized in accordance with the agreement executed under Section 11-46-203; and

(d) any additional costs incurred by the animal shelter in the administration of the requirements of this chapter.

Renumbered and Amended by Chapter 130, 2011 General Session

11-46-205. Failure to comply with sterilization agreement.

If a recipient fails to comply with the sterilization agreement under Subsection 11-46-203(2):

(1) the failure is ground for seizure and impoundment of the animal by the animal shelter from whom the recipient obtained the animal;

(2) the recipient relinquishes all ownership rights regarding the animal and any claim to expenses incurred in maintenance and care of the animal; and

(3) the recipient forfeits the sterilization deposit.

Renumbered and Amended by Chapter 130, 2011 General Session

11-46-206. Sterilization deposit -- When required for redemption by owner of impounded animal.

(1) Upon the second impound within a 12-month period and upon any subsequent impound of an animal that is claimed by its owner, an animal shelter may release the impounded animal to its owner only upon payment of all impound fees required by the shelter and:

(a) receipt of proof the animal has been sterilized; or

(b) a sterilization deposit.

(2) The sterilization deposit shall be refunded to the owner only if the owner provides proof of sterilization to the animal shelter within 30 days of release of the animal to the owner.

Renumbered and Amended by Chapter 130, 2011 General Session

11-46-207. Penalties.

(1) (a) A person who knowingly commits any of the violations in Subsection (2) is subject to a civil penalty of not less than $250 on a first violation, and a civil penalty of not less than $500 on any second or subsequent violation.

(b) The administrator of the animal shelter imposes the civil penalties under this section.

(2) A person is subject to the civil penalties under Subsection (1) who:

(a) falsifies any proof of sterilization submitted for the purpose of compliance with this part;

(b) provides to an animal shelter or a licensed veterinarian inaccurate information regarding ownership of any animal required to be submitted for sterilization under this part;

(c) submits to an animal shelter false information regarding sterilization fees or fee schedules; or

(d) issues a check for insufficient funds for any sterilization deposit required of the person under this part.

(3) A person who contests a civil penalty imposed under this section is entitled to an administrative hearing that provides for the person's rights of due process.

(4) All penalties collected under this section shall be retained by the animal shelter imposing the penalties, to be used solely for the purposes of Subsection 11-46-204(4).

Renumbered and Amended by Chapter 130, 2011 General Session

11-46-208. Local ordinances may be no less restrictive.

Local ordinances or the adoption or placement procedures of any animal shelter shall be at least as restrictive as the provisions of this part.

Renumbered and Amended by Chapter 130, 2011 General Session

11-46-301. Title.

This part is known as the "Community Cat Act."

Enacted by Chapter 130, 2011 General Session

11-46-302. Definitions.

In addition to the definitions in Sections 11-46-102 and 11-46-202, as used in this part:

(1) "Community cat" means a feral or free-roaming cat that is without visibly discernable or microchip owner identification of any kind, and has been sterilized, vaccinated, and ear-tipped.

(2) "Community cat caretaker" means any person other than an owner who provides food, water, or shelter to a community cat or community cat colony.

(3) "Community cat colony" means a group of cats that congregate together. Although not every cat in a colony may be a community cat, any cats owned by individuals that congregate with a colony are considered part of it.

(4) "Community cat program" means a program pursuant to which feral cats are sterilized, vaccinated against rabies, ear-tipped, and returned to the location where they congregate.

(5) "Ear-tipping" means removing approximately a quarter-inch off the tip of a cat's left ear while the cat is anesthetized for sterilization.

(6) "Feral" has the same meaning as in Section 23-13-2.

(7) "Sponsor" means any person or organization that traps feral cats, sterilizes, vaccinates against rabies, and ear-tips them before returning them to the location where they were trapped. A sponsor may be any animal humane society, non-profit organization, animal rescue, adoption organization, or a designated community cat caretaker that also maintains written records on community cats.

Enacted by Chapter 130, 2011 General Session

11-46-303. Community cats.

(1) A cat received by a shelter under the provisions of Section 11-46-103 may be released prior to the five-day holding period to a sponsor that operates a community cat program.

(2) A community cat is:

(a) exempt from licensing requirements and feeding bans; and

(b) eligible for release from an animal shelter prior to the mandatory five-day hold period in Section 11-46-103.

(3) Community cat sponsors or caretakers do not have custody, as defined in Section 76-9-301, of any cat in a community cat colony. Cats in a colony that are obviously owned, as evidenced by a collar, tags, microchip, or other discernable owner identification, are not exempt from the provisions of Title 76, Chapter 9, Part 3, Cruelty to Animals.

(4) Sterilization and vaccination records shall be maintained for a minimum of three years and be available to an animal control officer upon request.

Enacted by Chapter 130, 2011 General Session

11-46-304. Permit process for community cat colonies.

(1) A county or municipality may create a permitting process for community cat colonies.

(2) Any permitting process created by a county or municipality shall provide notice to adjacent property owners by:

(a) mailing notice to the record owner of each parcel within parameters specified by the permitting process; or

(b) posting notice on the property with a sign of sufficient size, durability, print quality, and location that is reasonably calculated to give notice to passers-by.

Enacted by Chapter 130, 2011 General Session

11-47-101. Title.

This chapter is known as "Access to Elected Officials."

Enacted by Chapter 45, 2011 General Session

11-47-102. Definitions.

For purposes of this chapter, "elected official" means each person elected to a county office, municipal office, school board or school district office, local district office, or special service district office, but does not include judges.

Enacted by Chapter 45, 2011 General Session

11-47-103. Public contact information.

Each elected official shall have a telephone number, if available, and an email address, if available, where that elected official may be reached directly.

Enacted by Chapter 45, 2011 General Session

11-48-101. Title.

This chapter is known as "Emergency Response."

Enacted by Chapter 230, 2011 General Session

11-48-102. Prohibition of response fees.

(1) As used in this section, "political subdivision" means a county, city, town, local district, or special district.

(2) A political subdivision, or a person who contracts with a political subdivision to provide emergency services:

(a) may not impose a flat fee, or collect a flat fee, from an individual involved in a traffic incident; and

(b) may only charge the individual for the actual cost of services provided in responding to the traffic incident, limited to:

(i) medical costs for:

(A) transporting an individual from the scene of a traffic accident; or

(B) treatment of a person injured in a traffic accident;

(ii) repair to damaged public property, if the individual is legally liable for the damage;

(iii) the cost of materials used in cleaning up the traffic accident, if the individual is legally liable for the traffic accident; and

(iv) towing costs.

(3) If a political subdivision, or a person who contracts with a political subdivision to provide emergency services, imposes a charge on more than one individual for the actual cost of responding to a traffic incident, the political subdivision or person contracting with the political subdivision shall apportion the charges so that it does not receive more for responding to the traffic incident than the actual response cost.

Enacted by Chapter 230, 2011 General Session

11-49-101. Title.

This chapter is known as "Political Subdivisions Ethics Review Commission."

Enacted by Chapter 202, 2012 General Session

11-49-102. Definitions.

(1) "Commission" means the Political Subdivisions Ethics Review Commission established in Section 11-49-201.

(2) "Complainant" means a person who files a complaint in accordance with Section 11-49-501.

(3) "Ethics violation" means a violation of:

(a) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

(b) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

(c) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(4) "Local political subdivision ethics commission" means an ethics commission established by a political subdivision within the political subdivision or with another political subdivision by interlocal agreement in accordance with Section 11-49-103.

(5) "Political subdivision" means a county, municipality, school district, community development and renewal agency, local district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, a local building authority, or any other governmental subdivision or public corporation.

(6) (a) "Political subdivision employee" means a person who is:

(i) (A) in a municipality, employed as a city manager or non-elected chief executive on a full or part-time basis; or

(B) employed as the non-elected chief executive by a political subdivision other than a municipality on a full or part-time basis; and

(ii) subject to:

(A) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

(B) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

(C) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(b) "Political subdivision employee" does not include:

(i) a person who is a political subdivision officer;

(ii) an employee of a state entity; or

(iii) a legislative employee as defined in Section 67-16-3.

(7) "Political subdivision governing body" means:

(a) for a county, the county legislative body as defined in Section 68-3-12.5;

(b) for a municipality, the council of the city or town;

(c) for a school district, the local board of education described in Section 53A-3-101;

(d) for a community development and renewal agency, the agency board described in Section 17C-1-203;

(e) for a local district, the board of trustees described in Section 17B-1-301;

(f) for a special service district:

(i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(ii) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301;

(g) for an entity created by an interlocal agreement, the governing body of an interlocal entity, as defined in Section 11-13-103;

(h) for a local building authority, the governing body, as defined in Section 17D-2-102, that creates the local building authority; or

(i) for any other governmental subdivision or public corporation, the board or other body authorized to make executive and management decisions for the subdivision or public corporation.

(8) (a) "Political subdivision officer" means a person elected in a political subdivision who is subject to:

(i) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

(ii) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

(iii) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(b) "Political subdivision officer" does not include:

(i) a person elected or appointed to a state entity;

(ii) the governor;

(iii) the lieutenant governor;

(iv) a member or member-elect of either house of the Legislature; or

(v) a member of Utah's congressional delegation.

(9) "Respondent" means a person who files a response in accordance with Section 11-49-604.

Enacted by Chapter 202, 2012 General Session

11-49-103. Local ethics commission permitted -- Filing requirements.

(1) A political subdivision, other than a municipality described in Section 10-3-1311 or a county described in Section 17-16a-11, may establish a local political subdivision ethics commission within the political subdivision to review a complaint against a political subdivision officer or employee subject to Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(2) A political subdivision may enter into an interlocal agreement with another political subdivision, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, to establish a local political subdivision ethics commission to review a complaint against a political subdivision officer or employee subject to Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(3) (a) A person filing a complaint for an ethics violation of Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act, shall file the complaint with:

(i) a local political subdivision ethics commission, if the political subdivision has established a local political subdivision ethics commission under Subsection (1) or (2); or

(ii) the commission if the political subdivision has not established a local political subdivision ethics commission.

(b) A political subdivision that receives a complaint described in Subsection (3)(a) may:

(i) accept the complaint if the political subdivision has established a local political subdivision ethics commission in accordance with Subsection (1) or (2); or

(ii) forward the complaint to the commission:

(A) regardless of whether the political subdivision has established a local political subdivision ethics commission; or

(B) if the political subdivision has not established a local political subdivision ethics commission.

Enacted by Chapter 202, 2012 General Session

11-49-201. Commission established -- Membership.

(1) There is established a Political Subdivisions Ethics Review Commission.

(2) The commission is composed of seven persons, each of whom is registered to vote in this state and appointed by the governor with the advice and consent of the

Senate, as follows:

(a) one member who has served, but no longer serves, as a judge of a court of record in this state;

(b) one member who has served as a mayor or municipal council member no more recently than four years before the date of appointment;

(c) one member who has served as a member of a local board of education no more recently than four years before the date of appointment;

(d) two members who are lay persons; and

(e) two members, each of whom is one of the following:

(i) a municipal mayor no more recently than four years before the date of appointment;

(ii) a municipal council member no more recently than four years before the date of appointment;

(iii) a county mayor no more recently than four years before the date of appointment;

(iv) a county commissioner no more recently than four years before the date of appointment;

(v) a special service district administrative control board member no more recently than four years before the date of appointment;

(vi) a local district board of trustees member no more recently than four years before the date of appointment; or

(vii) a judge who has served, but no longer serves, as a judge of a court of record in this state.

(3) A member of the commission may not, during the member's term of office on the commission, act or serve as:

(a) a political subdivision officer;

(b) a political subdivision employee;

(c) an agency head as defined in Section 67-16-3;

(d) a lobbyist as defined in Section 36-11-102; or

(e) a principal as defined in Section 36-11-102.

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), each member of the commission shall serve a four-year term.

(ii) When appointing the initial members upon formation of the commission, a member described in Subsections (2)(b) through (d) shall be appointed to a two-year term so that approximately half of the commission is appointed every two years.

(b) (i) When a vacancy occurs in the commission's membership for any reason, a replacement member shall be appointed for the unexpired term of the vacating member using the procedures and requirements of Subsection (2).

(ii) For the purposes of this section, an appointment for an unexpired term of a vacating member is not considered a full term.

(c) A member may not be appointed to serve for more than two full terms, whether those terms are two or four years.

(d) A member of the commission may resign from the commission by giving one month's written notice of the resignation to the governor.

(e) The governor shall remove a member from the commission if the member:

(i) is convicted of, or enters a plea of guilty to, a crime involving moral turpitude;

(ii) enters a plea of no contest or a plea in abeyance to a crime involving moral turpitude; or

(iii) fails to meet the qualifications of office as provided in this section.

(f) If a commission member is accused of wrongdoing in a complaint, or if a commission member determines that the commission member has a conflict of interest in relation to a complaint, a temporary commission member shall be appointed to serve in that member's place for the purposes of reviewing that complaint using the procedures and requirements of Subsection (2).

(5) (a) Except as provided in Subsection (5)(b)(i), a member of the commission may not receive compensation or benefits for the member's service.

(b) (i) A member may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) A member may decline to receive per diem and expenses for the member's service.

(6) (a) The commission members shall convene a meeting annually each January and elect, by a majority vote, a commission chair from among the commission members.

(b) A person may not serve as chair for more than two consecutive years.

Enacted by Chapter 202, 2012 General Session

11-49-202. Meetings -- Staff.

(1) The commission shall meet for the purpose of reviewing an ethics complaint when:

(a) except otherwise expressly provided in this chapter, called to meet at the discretion of the chair; or

(b) a majority of members agree to meet.

(2) A majority of the commission is a quorum.

(3) (a) The commission shall prepare, on an annual basis, a summary data report that contains:

(i) a general description of the activities of the commission during the past year;

(ii) the number of ethics complaints filed with the commission;

(iii) the number of ethics complaints dismissed in accordance with Section 11-49-602;

(iv) the number of ethics complaints reviewed by the commission in accordance with Section 11-49-701;

(v) an executive summary of each complaint review in accordance with Section 11-49-701; and

(vi) an accounting of the commission's budget and expenditures.

(b) The summary data report shall be submitted to the Political Subdivisions Interim Committee on an annual basis.

(c) The summary data report shall be a public record.

(4) (a) The Senate and the House of Representatives shall employ staff for the commission at a level that is reasonable to assist the commission in performing its duties as established in this chapter.

(b) The Legislative Management Committee shall:

(i) authorize each staff position for the commission; and

(ii) approve the employment of each staff member for the commission.

(c) Staff for the commission shall work only for the commission and may not perform services for the Senate, House of Representatives, other legislative offices, or a political subdivision.

(5) A meeting held by the commission is subject to Title 52, Chapter 4, Open and Public Meetings Act, unless otherwise provided.

Amended by Chapter 278, 2013 General Session

11-49-301. Authority to review complaint -- Grounds for complaint -- Limitations on filings.

(1) Subject to the requirements of this chapter and Section 10-3-1311 or 17-16a-11, the commission is authorized to review an ethics complaint against a political subdivision officer or employee if the complaint alleges:

(a) if the applicable political subdivision is a municipality, an ethics violation of Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act by:

(i) a city manager or non-elected chief executive; or

(ii) an elected officer, as defined in Section 10-3-1303;

(b) if the applicable political subdivision is a county, an ethics violation of Title 17, Chapter 16a, County Officers and Employees Disclosure Act by:

(i) an appointed officer, as defined in Section 17-16a-3;

(ii) an elected officer, as defined in Section 17-16a-3; or

(iii) an employee subject to Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

(c) for a political subdivision officer or employee other than a municipal officer or employee described in Subsection (1)(a) or a county officer or employee described in Subsection (1)(b), an ethics violation of Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(2) A complaint described in Subsection (1) shall be filed in accordance with the time limit provisions, if any, of the applicable part or chapter.

(3) (a) A complaint may not contain an allegation if that allegation and the general facts and circumstances supporting that allegation have been previously reviewed by a municipal ethics commission established under Section 10-3-1311, a county ethics commission established under Section 17-16a-11, or a local political subdivision ethics commission established under Section 11-49-103, as applicable, or the commission unless:

(i) the allegation was previously reviewed and dismissed by the commission under Section 11-49-602 or 11-49-701;

(ii) the allegation is accompanied by material facts or circumstances supporting the allegation that were not raised or pled to the commission; and

(iii) the allegation and the general facts and circumstances supporting that allegation have only been reviewed by the commission in accordance with Section 11-49-701 on one previous occasion.

(b) The commission may not review a complaint that is currently before:

(i) a municipal ethics commission established under Section 10-3-1311;

(ii) a county ethics commission established under Section 17-16a-11; or

(iii) a local political subdivision ethics commission established under Section 11-49-103.

(c) If an allegation in the complaint does not comply with the requirements of Subsection (3)(a) or (b), the allegation shall be summarily dismissed with prejudice by:

(i) the chair when reviewing the complaint under Section 11-49-601; or

(ii) the commission, when reviewing the complaint under Section 11-49-602 or 11-49-701.

Enacted by Chapter 202, 2012 General Session

11-49-302. General powers -- Jurisdiction.

(1) The commission has jurisdiction only over an individual who is a political subdivision officer or employee.

(2) The commission shall dismiss an ethics complaint if:

(a) the respondent resigns or is terminated from the political subdivision; or

(b) except as provided in Subsection (3):

(i) the respondent is charged with a criminal violation of:

(A) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

(B) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

(C) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act; and

(ii) the facts and allegations presented in the ethics complaint assert the same or similar facts and allegations as those asserted in the criminal charges.

(3) If an ethics complaint asserts an ethics violation in addition to a criminal violation described in Subsection (2)(b), the commission shall:

(a) dismiss an allegation described in Subsection (2)(b)(ii); and

(b) proceed with any remaining allegation in the complaint.

Enacted by Chapter 202, 2012 General Session

11-49-401. Hearing on ethics complaint -- General procedures.

(1) In conducting a hearing on a complaint in accordance with Part 7, Commission Review of Ethics Violation, the commission shall comply with the following process in the order specified:

(a) introduction and instructions for procedure and process, at the discretion of the chair;

(b) complainant's opening argument, to be presented by a complainant or complainant's counsel;

(c) complainant's presentation of evidence and witnesses in support of allegations in the complaint;

(d) consideration of motions to dismiss the complaint or motions for a finding of no cause, as applicable;

(e) respondent's opening argument, to be presented by the respondent or respondent's counsel;

(f) respondent's presentation of evidence and witnesses refuting allegations in

the complaint;

(g) presentation of rebuttal evidence and witnesses by the complainant, at the discretion of the chair;

(h) presentation of rebuttal evidence and witnesses by the respondent, at the discretion of the chair;

(i) complainant's closing argument, to be presented by a complainant or complainant's counsel;

(j) respondent's closing argument, to be presented by the respondent or respondent's counsel;

(k) deliberations by the commission; and

(l) adoption of the commission's findings.

(2) The commission may, in extraordinary circumstances, vary the order contained in Subsection (1) by majority vote and by providing notice to the parties.

(3) The chair may schedule the examination of a witness or evidence subpoenaed at the request of the chair or the commission under Section 11-49-403 at the chair's discretion.

Enacted by Chapter 202, 2012 General Session

11-49-402. Chair as presiding officer.

(1) Except as expressly provided otherwise in this chapter, the chair of the commission is vested with the power to direct the commission during meetings authorized by this chapter.

(2) Unless expressly prohibited from doing so under this chapter, the commission may overrule a decision of the chair by using the following procedure:

(a) If a member objects to a decision of the chair, that member may appeal the decision by stating:

(i) "I appeal the decision of the chair."; and

(ii) the basis for the objection.

(b) A motion described in Subsection (2)(a) is nondebatable.

(c) The chair shall direct a roll call vote to determine if the commission supports the decision of the chair.

(d) A majority vote of the commission is necessary to overrule the decision of the chair.

(3) The chair may set time limitations on any part of a meeting or hearing authorized by this chapter.

Enacted by Chapter 202, 2012 General Session

11-49-403. Subpoena powers.

(1) Except for a preliminary review described in Section 11-49-602, for a proceeding authorized by this chapter, the commission may issue a subpoena to:

(a) require the attendance of a witness;

(b) direct the production of evidence; or

(c) require both the attendance of a witness and the production of evidence.

(2) The commission shall issue a subpoena:

(a) in accordance with Section 11-49-405;

(b) at the direction of the commission chair, if the chair determines that the testimony or evidence is relevant to the review of a complaint under Part 7, Commission Review of Ethics Violations; or

(c) upon a vote of a majority of the commission members.

(3) If the commission issues a subpoena authorized under this section, the commission shall give a reasonable period of time for the person or entity to whom the subpoena is directed to petition a district court to quash or modify the subpoena before the time specified in the subpoena for compliance.

Enacted by Chapter 202, 2012 General Session

11-49-404. Contempt of the commission.

(1) (a) The following actions constitute contempt of the commission in relation to actions and proceedings under this chapter:

(i) disobedience to a direction of the commission chair;

(ii) failure, without legal justification, to answer a question during a hearing when directed to do so by:

(A) the commission chair, unless the direction is overridden by the commission in accordance with Section 11-49-402; or

(B) a majority of the commission;

(iii) failure to comply with a subpoena or other order issued under authority of this chapter;

(iv) violation of privacy provisions established by Section 11-49-502;

(v) violation of the communication provisions established by Section 11-49-407;

(vi) violation of a request to comply with a provision of this chapter by a chair or a majority of the members of the commission; or

(vii) any other ground that is specified in statute or recognized by common law.

(b) Because the purpose of the Fifth Amendment privilege not to incriminate oneself is to prevent prosecution for criminal action, it is improper for a witness to invoke the Fifth Amendment privilege if the witness cannot be prosecuted for the crime to which the witness's testimony relates.

(2) (a) The following persons may authorize an enforcement action against a person in contempt of the commission under the provisions of this chapter:

(i) the commission chair, subject to the provisions of Section 11-49-402; or

(ii) members of the commission, by means of a majority vote.

(b) In initiating and pursuing an action against an individual for contempt of the commission, the plaintiff shall comply with the procedures and requirements of Section 11-49-405.

Enacted by Chapter 202, 2012 General Session

11-49-405. Order to compel -- Enforcement.

(1) (a) When the subject of a subpoena issued in accordance with Section 11-49-403 disobeys or fails to comply with the subpoena, or if a person appears before the commission pursuant to a subpoena and refuses to testify to a matter upon which

the person may be lawfully interrogated, the commission may:

(i) file a motion for an order to compel obedience to the subpoena with the district court within the jurisdiction of the applicable political subdivision;

(ii) file, with the district court, a motion for an order to show cause why the penalties established in Title 78B, Chapter 6, Part 3, Contempt, should not be imposed upon the person named in the subpoena for contempt of the commission; or

(iii) pursue other remedies against persons in contempt of the commission.

(b) (i) Upon receipt of a motion under this section, the court shall expedite the hearing and decision on the motion.

(ii) A court may:

(A) order the person named in the subpoena to comply with the subpoena; and

(B) impose any penalties authorized by Title 78B, Chapter 6, Part 3, Contempt, upon the person named in the subpoena for contempt of the commission.

(2) (a) If a commission subpoena requires the production of accounts, books, papers, documents, or other tangible things, the person or entity to whom the subpoena is directed may petition a district court to quash or modify the subpoena at or before the time specified in the subpoena for compliance.

(b) The commission may respond to a motion to quash or modify the subpoena by pursuing any remedy authorized by Subsection (1).

(c) If the court finds that a commission subpoena requiring the production of accounts, books, papers, documents, or other tangible things is unreasonable or oppressive, the court may quash or modify the subpoena.

(3) Nothing in this section prevents the commission from seeking an extraordinary writ to remedy contempt of the commission.

(4) Any party aggrieved by a decision of a court under this section may appeal that action directly to the Utah Supreme Court.

Enacted by Chapter 202, 2012 General Session

11-49-406. Testimony and examination of witnesses -- Oath -- Procedure -- Contempt.

(1) (a) The chair shall ensure that each witness listed in the complaint and response is subpoenaed for appearance at the hearing unless:

(i) the witness is unable to be properly identified or located; or

(ii) service is otherwise determined to be impracticable.

(b) The chair shall determine the scheduling and order of witnesses and presentation of evidence.

(c) The commission may, by majority vote:

(i) overrule the chair's decision not to subpoena a witness under Subsection (1)(a);

(ii) modify the chair's determination on the scheduling and order of witnesses under Subsection (1)(b);

(iii) decline to hear or call a witness that has been requested by the complainant or respondent;

(iv) decline to review or consider evidence submitted in relation to an ethics complaint; or

(v) request and subpoena witnesses or evidence according to the procedures of Section 11-49-403.

(2) (a) Each witness shall testify under oath.

(b) The chair or the chair's designee shall administer the oath to each witness.

(3) After the oath has been administered to the witness, the chair shall direct testimony as follows:

(a) allow the party that has called the witness, or that party's counsel, to question the witness;

(b) allow the opposing party, or that party's counsel, to cross-examine the witness;

(c) allow additional questioning by a party or a party's counsel as appropriate;

(d) give commission members the opportunity to question the witness; and

(e) as appropriate, allow further examination of the witness by the commission, or the parties or their counsel.

(4) (a) If the witness, a party, or a party's counsel objects to a question, the chair shall:

(i) direct the witness to answer; or

(ii) rule that the witness is not required to answer the question.

(b) If the witness declines to answer a question after the chair or a majority of the commission determines that the witness is required to answer the question, the witness may be held in contempt as provided in Section 11-49-404.

(5) (a) The chair or a majority of the members of the commission may direct a witness to furnish any relevant evidence for consideration if the witness has brought the material voluntarily or has been required to bring it by subpoena.

(b) If the witness declines to provide evidence in response to a subpoena, the witness may be held in contempt as provided in Section 11-49-404.

Enacted by Chapter 202, 2012 General Session

11-49-407. Communications of commission members.

(1) As used in this section, "third party" means a person who is not a member of the commission or staff to the commission.

(2) While a complaint is under review by the commission, a member of the commission may not initiate or consider any communications concerning the complaint with a third party unless:

(a) the communication is expressly permitted under the procedures established by this chapter; or

(b) the communication is made by the third party, in writing, simultaneously to:

(i) all members of the commission; and

(ii) a staff member of the commission.

(3) While the commission is reviewing a complaint under this chapter, a commission member may communicate outside of a meeting, hearing, or deliberation with another member of, or staff to, the commission, only if the member's communication does not materially compromise the member's responsibility to independently review and make decisions in relation to the complaint.

Amended by Chapter 278, 2013 General Session

11-49-408. Attorney fees and costs.

(1) A person filing a complaint under this chapter:

(a) may, but is not required to, retain legal representation during the complaint review process; and

(b) is responsible for payment of complainant's attorney fees and costs incurred.

(2) (a) A respondent against whom a complaint is filed under this chapter may:

(i) but is not required to, retain legal representation during the complaint review process; and

(ii) be entitled to the provision of legal defense by the political subdivision in accordance with Section 63G-7-902.

(b) For purposes of Subsection (2)(a)(ii), a complaint filed against a respondent in accordance with this chapter shall constitute an action against a governmental employee in accordance with Section 63G-7-902.

(3) (a) An attorney participating in a hearing before the commission shall comply with:

(i) the Rules of Professional Conduct established by the Utah Supreme Court;

(ii) the procedures and requirements of this chapter; and

(iii) the directions of the chair and commission.

(b) A violation of Subsection (3)(a) may constitute:

(i) contempt of the commission under Section 11-49-404; or

(ii) a violation of the Rules of Professional Conduct subject to enforcement by the Utah State Bar.

Enacted by Chapter 202, 2012 General Session

11-49-501. Ethics complaints -- Who may file -- Form.

(1) (a) Notwithstanding any other provision, the following may file a complaint, subject to the requirements of Subsections (1)(b) and (c) and Section 11-49-301, against a political subdivision officer or employee:

(i) two or more registered voters who reside within the boundaries of a political subdivision;

(ii) two or more registered voters who pay a fee or tax to a political subdivision; or

(iii) one or more registered voters who reside within the boundaries of a political subdivision and one or more registered voters who pay a fee or tax to the political subdivision.

(b) A person described in Subsection (1)(a) may not file a complaint unless at least one person described in Subsection (1)(a)(i), (ii), or (iii) has actual knowledge of the facts and circumstances supporting the alleged ethics violation.

(c) A complainant may file a complaint only against an individual who, on the date that the complaint is filed, is serving as a political subdivision officer or is a political subdivision employee.

(2) (a) (i) A complainant shall file a complaint with the Office of the Lieutenant Governor.

(ii) The lieutenant governor shall forward the complaint to the chair of the commission no later than five days after the day on which the complaint is filed.

(b) An individual may not file a complaint during the 60 calendar days immediately preceding:

(i) a regular primary election, if the accused political subdivision officer is a candidate in the primary election; or

(ii) a regular general election in which an accused political subdivision officer is a candidate, unless the accused political subdivision officer is unopposed in the election.

(3) A complainant shall ensure that each complaint filed under this section is in writing and contains the following information:

(a) the name and position of the political subdivision officer or employee alleged to be in violation;

(b) the name, address, and telephone number of each individual who is filing the complaint;

(c) a description of each alleged ethics violation, as applicable of:

(i) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

(ii) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

(iii) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act;

(d) include for each alleged ethics violation:

(i) a reference to the section of the code alleged to have been violated;

(ii) the name of the complainant who has actual knowledge of the facts and circumstances supporting each allegation; and

(iii) with reasonable specificity, the facts and circumstances supporting each allegation, which shall be provided by:

(A) copies of official records or documentary evidence; or

(B) one or more affidavits that include the information required in Subsection (4);

(e) a list of the witnesses that a complainant wishes to have called, including for each witness:

(i) the name, address, and, if available, one or more telephone numbers of the witness;

(ii) a brief summary of the testimony to be provided by the witness; and

(iii) a specific description of any documents or evidence a complainant desires the witness to produce;

(f) a statement that each complainant:

(i) has reviewed the allegations contained in the complaint and the sworn statements and documents attached to the complaint;

(ii) believes that the complaint is submitted in good faith and not for any improper purpose such as for the purpose of harassing the respondent, causing unwarranted harm to the respondent's reputation, or causing unnecessary expenditure of public funds; and

(iii) believes the allegations contained in the complaint to be true and accurate; and

(g) the signature of each complainant.

(4) An affidavit described in Subsection (3)(d)(iii)(B) shall include:

(a) the name, address, and telephone number of the signer;

(b) a statement that the signer has actual knowledge of the facts and

circumstances alleged in the affidavit;

(c) the facts and circumstances testified by the signer;

(d) a statement that the affidavit is believed to be true and correct and that false statements are subject to penalties of perjury; and

(e) the signature of the signer.

Enacted by Chapter 202, 2012 General Session

11-49-502. Privacy of ethics complaint -- Contempt -- Enforcement of finding of contempt -- Dismissal.

(1) (a) Except as provided in Subsection (1)(b) or (c), a person, including a complainant, the respondent, a commission member, or staff to the commission, may not disclose the existence of a complaint, a response, nor any information concerning any alleged ethics violation that is the subject of a complaint:

(i) unless otherwise provided in this chapter; or

(ii) after a complaint is presented at the meeting described in Section 11-49-701.

(b) The restrictions in Subsection (1)(a) do not apply to the respondent's voluntary disclosure of a finding by the commission that no allegations in a complaint were proved after that finding is issued by the commission under the procedures and requirements of Section 11-49-602.

(c) Nothing in this section shall prevent a person from disclosing facts or allegations about potential criminal violations to a law enforcement authority.

(d) Nothing in this section may be construed to hinder or prevent a respondent from preparing a defense to a complaint, including contacting a witness or other actions in preparation for review by the commission.

(2) A person who violates the provisions of Subsection (1)(a) is in contempt of the commission and proceedings may be initiated to enforce the finding of contempt using the procedures provided in Sections 11-49-404 and 11-49-405.

(3) If the existence of an ethics complaint is publicly disclosed before or during the preliminary review period described in Section 11-49-602, the complaint shall be summarily dismissed without prejudice.

Enacted by Chapter 202, 2012 General Session

11-49-601. Review of ethics complaint for compliance with form requirements -- Independent requirements for complaint -- Notice.

(1) Within five business days after receipt of a complaint, the staff of the commission, in consultation with the chair of the commission, shall examine the complaint to determine if it is in compliance with Sections 11-49-301 and 11-49-501.

(2) (a) If the chair determines that the complaint does not comply with Sections 11-49-301 and 11-49-501, the chair shall:

(i) return the complaint to the first complainant named on the complaint with:

(A) a statement detailing the reason for the non-compliance; and

(B) a copy of the applicable provisions in this chapter; and

(ii) notify the applicable political subdivision governing body that:

(A) a complaint was filed against an unidentified political subdivision officer or

employee but was returned for non-compliance with this chapter; and

(B) the fact that a complaint was filed and returned shall be kept confidential until the commission submits its annual summary data report as required by Section 11-49-202.

(b) If a complaint is returned for non-compliance with the requirements of this chapter, a complainant may file another complaint if the new complaint independently meets the requirements of Sections 11-49-301 and 11-49-501, including any requirements for timely filing.

(3) If the chair determines that the complaint complies with the requirements of this section, the chair shall:

(a) accept the complaint;

(b) notify each member of the commission that the complaint has been filed and accepted;

(c) notify the applicable political subdivision that:

(i) a complaint has been filed against an unidentified political subdivision officer or employee;

(ii) the identity of the political subdivision officer or employee and the allegations raised in the complaint are confidential pending the commission's preliminary review of the complaint; and

(iii) the fact that a complaint was filed shall be kept confidential until the commission publicly discloses the existence of the complaint via:

(A) notice of the commission's review of a complaint in accordance with Section 11-49-701; or

(B) submission of the commission's annual summary data report as required in Section 11-49-202; and

(d) promptly forward the complaint to the political subdivision officer or employee who is the subject of the ethics complaint via personal delivery or a delivery method that provides verification of receipt, together with a copy of this chapter and notice of the officer's or employee's deadline for filing a response to the complaint if the complaint is not dismissed under Section 11-49-602.

Enacted by Chapter 202, 2012 General Session

11-49-602. Preliminary review of complaint -- Standard of proof -- Notice.

(1) (a) By no later than 10 calendar days after the day on which a complaint is accepted under Section 11-49-601, the commission chair shall:

(i) schedule a commission meeting on a date no later than 60 calendar days after the date on which the commission accepts the complaint;

(ii) place the complaint on the agenda for consideration at the meeting;

(iii) provide a copy of the complaint to the members; and

(iv) provide notice of the date, time, and location of the meeting:

(A) to the respondent;

(B) the first complainant named in the complaint;

(C) each commission member; and

(D) in accordance with Section 52-4-202.

(b) The meeting described in Subsection (1)(a)(ii) is closed to the public in

accordance with Section 52-4-204.

(2) (a) At the meeting described in Subsection (1)(a)(i):

(i) the commission members shall review each allegation in the complaint;

(ii) the commission may not receive testimony, hear a motion from a party, or admit evidence; and

(iii) the chair shall conduct deliberations.

(b) The commission may, if necessary:

(i) request a formal response or affidavit from a respondent; and

(ii) review the response or affidavit at the meeting.

(c) Upon a motion made by a commission member, the commission may exclude commission staff from all or a portion of the deliberations by a majority vote.

(3) (a) During deliberations, each commission member shall, for each allegation, determine:

(i) whether the facts alleged, if true, would be an ethics violation;

(ii) whether the complaint includes an affidavit from a person with firsthand knowledge of alleged facts described in Subsection (3)(a)(i); and

(iii) whether the complaint is frivolous or solely for a political purpose.

(b) A commission member shall vote to forward an allegation in a complaint for a final commission review in accordance with Part 7, Commission Review of Ethics Violation, if the commission member determines:

(i) an allegation, if true, would be an ethics violation;

(ii) the complaint contains an affidavit with firsthand knowledge of the allegation under Subsection (3)(a)(ii); and

(iii) the allegation is not frivolous or solely for a political purpose.

(4) (a) A verbal roll call vote shall be taken on each allegation and each member's vote shall be recorded.

(b) The commission may not review an allegation for a final determination under Part 7, Commission Review of Ethics Violation, unless six of the seven members of the commission vote to review the allegation.

(5) (a) An allegation that is not forwarded for a final determination is dismissed.

(b) Before the commission issues an order in accordance with this section, the commission may, upon a majority vote, reconsider and hold a new vote on an allegation.

(c) A motion to reconsider a vote may only be made by a member of the commission who voted that the allegation should not be forwarded for a final determination.

(6) (a) If each allegation stated in a complaint is dismissed in accordance with this section, the commission shall:

(i) issue and enter into the record an order that the complaint is dismissed because no allegations, in accordance with this section, were forwarded for a final determination;

(ii) classify all recordings, testimony, evidence, orders, findings, and other records directly relating to the meetings authorized by this part as private records under Section 63G-2-302;

(iii) provide notice of the determination, in a manner determined by the chair, to:

(A) the respondent;

(B) the first complainant named on the complaint; and

(C) subject to Subsection (6)(b), the appropriate political subdivision; and

(iv) provide notice to each person or entity named in Subsections (6)(a)(iii)(A) through (C) that, under provisions of Section 11-49-502 and other provisions of this chapter, a person who discloses the findings of the commission in violation of any provision of this chapter is in contempt of the commission and is subject to penalties for contempt.

(b) The notification to the appropriate political subdivision shall notify the political subdivision that:

(i) a complaint against an unidentified political subdivision officer or employee has been dismissed; and

(ii) the fact that a complaint was filed shall be kept confidential until the commission publicly discloses the existence of the complaint via submission of the commission's annual summary data report as required in Section 11-49-202.

(7) If one or more of the allegations stated in a complaint are not dismissed in accordance with this section, the commission shall:

(a) issue and enter into the record:

(i) an order for each allegation that is dismissed, if any, because the allegation was not forwarded for a final determination; and

(ii) an order for further review under Part 7, Commission Review of Ethics Violation, of each allegation that is not dismissed;

(b) classify all recordings, orders, findings, and other records or documents directly relating to a meeting authorized by this section as private records under Section 63G-2-302;

(c) if an allegation was dismissed, provide notice of the determination for each allegation dismissed in a manner determined by the chair, to:

(i) the respondent;

(ii) the first complainant named on the complaint; and

(iii) subject to Subsection (8), the appropriate political subdivision; and

(d) provide notice to each person or entity named in Subsections (7)(c)(i) through (iii) that:

(i) under provisions of Section 11-49-502 and other provisions of this chapter, a person who discloses the findings of the commission under this section in violation of any provision of this chapter is in contempt of the commission and is subject to penalties for contempt; and

(ii) the commission shall review the remaining allegations in the complaint at a meeting described in Section 11-49-603 and in accordance with Part 7, Commission Review of Ethics Violation.

(8) The notification to the appropriate political subdivision shall notify the political subdivision that:

(a) an unspecified allegation in a complaint against an unidentified political subdivision officer or employee has been dismissed; and

(b) the fact that a complaint was filed shall be kept confidential until the commission publicly discloses the existence of the complaint in accordance with the provisions of this chapter.

(9) For a complaint described in Subsection (7), the commission members shall

ensure that, within five business days after the day of the meeting described in Subsection (1)(a)(ii), the complaint is redacted to remove references to an allegation that is dismissed under this section.

(10) The chair shall ensure that a record of the meeting held under this section is kept in accordance with Section 11-49-702.

Enacted by Chapter 202, 2012 General Session

11-49-603. Meeting of the Commission to review a complaint -- Procedures.

By no later than 10 calendar days after the day on which a complaint is accepted under Section 11-49-602 for further review, the commission chair shall:

(1) schedule a commission meeting on a date no later than 45 calendar days after the date on which the commission votes to forward a complaint for final determination in accordance with Section 11-49-602;

(2) place the complaint on the agenda for consideration at the meeting described in Subsection (1);

(3) provide notice of the date, time, and location of the meeting:

(a) to:

(i) the members of the commission;

(ii) the first complainant named in the complaint; and

(iii) the respondent; and

(b) in accordance with Section 52-4-202; and

(4) provide a copy of the complaint or redacted complaint, as required in Section 11-49-602, to each member of the commission.

Enacted by Chapter 202, 2012 General Session

11-49-604. Response to ethics complaint -- Filing -- Form.

(1) The political subdivision officer or employee who is the subject of the complaint may file a response to the complaint no later than 30 days after the day on which the officer or employee receives delivery of an order issued by the commission under Subsection 11-49-602(7).

(2) The respondent shall file the response with the commission and ensure that the response is in writing and contains the following information:

(a) the name, address, and telephone number of the respondent;

(b) for each alleged ethics violation in the complaint:

(i) each affirmative defense asserted in response to the allegation, including a general description of each affirmative defense and the facts and circumstances supporting the defense to be provided by one or more affidavits, each of which shall comply with Subsection (4);

(ii) the facts and circumstances refuting the allegation, which shall be provided by:

(A) copies of official records or documentary evidence; or

(B) one or more affidavits, each of which shall comply with Subsection (4);

(c) a list of the witnesses that the respondent wishes to have called, including for

each witness:

(i) the name, address, and, if available, telephone number of the witness;

(ii) a brief summary of the testimony to be provided by the witness; and

(iii) a specific description of any documents or evidence the respondent desires the witness to produce;

(d) a statement that the respondent:

(i) has reviewed the allegations contained in the complaint and the sworn statements and documents attached to the response; and

(ii) believes the contents of the response to be true and accurate; and

(e) the signature of the respondent.

(3) Promptly after receiving the response, the commission shall provide copies of the response to:

(a) each member of the commission; and

(b) the first named complainant on the complaint.

(4) An affidavit described in Subsection (2)(b)(i) or (2)(b)(ii)(B) shall include the following information:

(a) the name, address, and telephone number of the signer;

(b) a statement that the signer has actual knowledge of the facts and circumstances alleged in the affidavit;

(c) the facts and circumstances testified to by the signer;

(d) a statement that the affidavit is believed to be true and correct and that false statements are subject to penalties of perjury; and

(e) the signature of the signer.

Enacted by Chapter 202, 2012 General Session

11-49-701. Commission review of ethics violation.

(1) The scope of a review by the commission is limited to an alleged ethics violation stated in a complaint that has not been previously dismissed under Section 11-49-602.

(2) (a) Before holding the meeting for review of the complaint, the commission chair may schedule a separate meeting of the commission for the purposes of:

(i) hearing motions or arguments from the parties, including hearing motions or arguments relating to dismissal of a complaint, admission of evidence, or procedures;

(ii) holding a vote of the commission, with or without the attendance of the parties, on procedural or commission business matters relating to a complaint; or

(iii) reviewing a complaint, with or without the attendance of the parties, to determine if the complaint should be dismissed in whole or in part, by means of a majority vote of the commission, because the complaint pleads facts or circumstances against a political subdivision officer or employee that have already been reviewed by, as provided in Section 11-49-301, the commission, a municipal ethics commission established in accordance with Section 10-3-1311, a county ethics commission established in accordance with Section 17-16a-11, or a local political subdivision ethics commission established in accordance with Section 11-49-103.

(b) Notwithstanding Section 11-49-603, the commission may, by a majority vote, change the date of the meeting for review of the complaint in order to accommodate:

(i) a meeting authorized under Subsection (2)(a); or

(ii) necessary scheduling requirements.

(3) (a) The commission shall comply with the Utah Rules of Evidence except where the commission determines, by majority vote, that a rule is not compatible with the requirements of this chapter.

(b) The chair shall make rulings on admissibility of evidence consistent with the provisions of Section 11-49-402.

(4) (a) A meeting or hearing authorized in this part is open to the public except as provided in Section 52-4-204.

(b) The following individuals may be present during the presentation of testimony and evidence to the commission:

(i) the complainant;

(ii) the complainant's counsel, if applicable;

(iii) the respondent;

(iv) the respondent's counsel, if applicable;

(v) members of the commission;

(vi) staff to the commission;

(vii) a witness, while testifying before the commission; and

(viii) necessary security personnel.

(c) The commission may, in accordance with Section 52-4-204, close a meeting to:

(i) seek or obtain legal advice on legal, evidentiary, or procedural matters; or

(ii) conduct deliberations to reach a decision on the complaint.

(5) If a majority of the commission determines that a continuance is necessary to obtain further evidence and testimony, to accommodate administrative needs, or to accommodate the attendance of commission members, witnesses, or a party, the commission shall:

(a) adjourn and continue the meeting to a future date and time after notice to the parties; and

(b) establish that future date and time by majority vote.

(6) A record, as defined in Section 63G-2-103, created by the commission under this part, reviewed by the commission under this part, or received by the commission under this part, is a public record, as defined in Section 63G-2-103.

Enacted by Chapter 202, 2012 General Session

11-49-702. Record -- Recording of meetings.

(1) (a) Except as provided in Subsection (1)(b), an individual may not use a camera or other recording device in a meeting authorized by this part.

(b) (i) The commission shall keep an audio or video recording of all portions of each meeting authorized by this part.

(ii) The commission may, by a majority vote of the commission, permit a camera or other recording device in the meeting in which the commission releases the commission's recommendation under this part.

(2) In addition to the recording required in Subsection (1), the chair shall ensure that a record of the meeting or hearing is made, which shall include:

(a) official minutes taken during the meeting or hearing, if any;

(b) copies of all documents or other items admitted into evidence by the commission;

(c) copies of a document or written order or ruling issued by the chair or the commission; and

(d) any other information that a majority of the commission or the chair directs.

Enacted by Chapter 202, 2012 General Session

11-49-703. Commission deliberations -- Standard of proof.

(1) After each party has presented a closing argument, the commission shall, at the direction of the chair, begin its deliberations:

(a) immediately after conclusion of the closing arguments; or

(b) at a future meeting of the commission, on a date and time determined by a majority of the members of the commission.

(2) (a) The chair of the commission shall conduct the deliberations.

(b) Upon a motion made by a commission member, the commission may:

(i) exclude commission staff from all or a portion of the deliberations by a majority vote of the commission; or

(ii) close the meeting in accordance with Section 52-4-204.

(3) (a) During deliberations, for each allegation reviewed by the commission, each member shall determine and cast a vote stating:

(i) whether the allegation is:

(A) proven by clear and convincing evidence; or

(B) not proven; and

(ii) for each allegation proven, whether the commission would recommend to the appropriate political subdivision governing body to take one or more of the following actions:

(A) censure;

(B) in the case of a political subdivision employee, termination;

(C) in the case of a political subdivision officer, removal from office; or

(D) any other action or reprimand that the commission determines is appropriate.

(b) (i) A verbal roll call vote shall be taken on each allegation, and each recommended action described in Subsection (3)(a)(ii) on each allegation.

(ii) Each member's vote shall be recorded.

(4) (a) An allegation is not considered to be proven unless six of the seven members of the commission vote that the allegation is proven.

(b) An allegation that is not considered to be proven is dismissed.

(c) (i) Before the commission issues its recommendation in accordance with Section 11-49-704, the commission may, upon a majority vote, reconsider and hold a new vote on an allegation.

(ii) A motion to reconsider a vote may only be made by a member of the commission who voted that the allegation was not proved.

(5) At the conclusion of deliberations, the commission shall prepare its recommendations as provided in Sections 11-49-704 and 11-49-705.

Enacted by Chapter 202, 2012 General Session

11-49-704. Recommendations of commission.

(1) (a) If the commission determines that no allegations in the complaint were proved, the commission shall:

(i) issue and enter into the record an order that the complaint is dismissed because no allegations in the complaint were found to have been proved;

(ii) provide notice of the determination at a public meeting; and

(iii) provide written notice of the determination to:

(A) the respondent;

(B) the first complainant named on the complaint; and

(C) the appropriate political subdivision.

(2) If the commission determines that one or more of the allegations in the complaint were proved, the commission shall:

(a) if one or more allegations were not found to have been proven, enter into the record an order dismissing those unproven allegations; and

(b) prepare a written recommendation to the applicable political subdivision governing body that:

(i) lists the name of each complainant;

(ii) lists the name of the respondent;

(iii) states the date of the recommendation;

(iv) for each allegation that was found to be proven:

(A) provides a reference to the statute or criminal provision allegedly violated;

(B) states the number and names of commission members voting that the allegation was proved and the number and names of commission members voting that the allegation was not proved;

(C) at the option of those members voting that the allegation was proved, includes a statement by one or all of those members stating the reasons for voting that the allegation was proved; and

(D) at the option of those members voting that the allegation was not proved, includes a statement by one or all of those members stating the reasons for voting that the allegation was not proved;

(v) contains any general statement that is adopted for inclusion in the recommendation by a majority of the members of the commission;

(vi) contains a statement referring the allegations found to have been proved to the appropriate political subdivision governing body for review and, if necessary, further action;

(vii) contains a statement referring to each allegation proven the commission's recommendation under Subsection 11-49-703(3)(a)(ii);

(viii) states the name of each member of the commission; and

(ix) is signed by each commission member.

(3) The commission shall provide notice of the determination:

(a) at a public meeting; and

(b) in writing to:

(i) the respondent;

(ii) the first complainant named on the complaint; and

(iii) in accordance with Subsection (4), the appropriate political subdivision.

(4) The commission shall ensure that, within five business days of the date of public issuance of the determination in accordance with Subsection (3), the following documents are provided to the political subdivision governing body:

(a) a cover letter referring the proven allegations contained in the complaint to the political subdivision governing body for review;

(b) a copy of the complaint;

(c) a copy of the response; and

(d) a copy of the commission's recommendation.

Enacted by Chapter 202, 2012 General Session

11-49-705. Criminal allegation -- Recommendation to county or district attorney.

(1) If the commission finds that a political subdivision officer or employee allegedly violated a criminal provision, the commission shall, in addition to sending a recommendation to a political subdivision governing body in accordance with Section 11-49-704, send a recommendation for further investigation to the county or district attorney of jurisdiction by delivering to the county or district attorney a written recommendation that:

(a) lists the name of each complainant;

(b) lists the name of the respondent;

(c) states the date of the recommendation;

(d) for each allegation of a criminal violation, provide a reference to the criminal provision allegedly violated;

(e) includes a general statement that is adopted by a majority of the members of the commission; and

(f) gives the name of the political subdivision governing body that the commission sent a recommendation to in accordance with Section 11-49-704.

(2) If the commission sends a recommendation in accordance with Subsection (1)(a), the commission shall enter into the record:

(a) a copy of the recommendation; and

(b) the name of the county or district attorney of jurisdiction to whom it was sent.

(3) A recommendation prepared and delivered in accordance with this section is a public record.

Enacted by Chapter 202, 2012 General Session

11-49-706. Action by political subdivision governing body.

A political subdivision governing body that receives a recommendation in accordance with Section 11-49-704 shall:

(1) review the recommendation; and

(2) take further action in accordance with a political subdivision's governing ordinance, bylaws, or other applicable governing rule.

Enacted by Chapter 202, 2012 General Session

11-50-101. Title.

This chapter is known as "Political Subdivision Financial Reporting Certification."

Enacted by Chapter 367, 2013 General Session

11-50-102. Definitions.

As used in this chapter:

(1) "Annual financial report" means a comprehensive annual financial report or similar financial report required by Section 51-2a-201.

(2) "Chief administrative officer" means the chief administrative officer designated in accordance with Section 11-50-202.

(3) "Chief financial officer" means the chief financial officer designated in accordance with Section 11-50-202.

(4) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a local district, the board of trustees of the local district;

(c) for a school district, the local board of education; or

(d) for a special service district under Title 17D, Chapter 1, Special Service District Act:

(i) the governing body of the county or municipality that created the special service district, if no administrative control board has been established under Section 17D-1-301; or

(ii) the administrative control board, if one has been established under Section 17D-1-301.

(5) (a) "Political subdivision" means any county, city, town, school district, community development and renewal agency, special improvement or taxing district, local district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.

(b) Notwithstanding Subsection (5)(a), "political subdivision" does not mean a project entity, as defined in Section 11-13-103.

Enacted by Chapter 367, 2013 General Session

11-50-201. Certification by chief administrative officer and chief financial officer required.

For an annual financial report of a political subdivision to be considered complete on and after July 1, 2013, the following certifications shall be included with the annual financial report:

(1) Under penalty of perjury, I, [officer's name] certify that the [annual financial report] of [political subdivision] for the year ended [date] fairly presents in all material respects the financial condition and results of operations of [political subdivision].

[signature], Chief Administrative Officer.

(2) Under penalty of perjury, I, [officer's name] certify that the [annual financial

report] of [political subdivision] for the year ended [date] fairly presents in all material respects the financial condition and results of operations of [political subdivision].

[signature], Chief Financial Officer.

Enacted by Chapter 367, 2013 General Session

11-50-202. Designating chief administrative officer -- Designating chief financial officer.

(1) (a) The chief administrative officer of a political subdivision is:

(i) the individual appointed as the chief administrative officer of the political subdivision in accordance with statute; or

(ii) if a chief administrative officer is not appointed in accordance with statute, the individual designated as the chief administrative officer by the governing body of the political subdivision.

(b) In designating a chief administrative officer under this Subsection (1), the governing body shall designate the individual who holds a managerial or similar position to perform administrative duties or functions for the political subdivision.

(2) (a) The chief financial officer of a political subdivision is:

(i) the individual appointed as the chief financial officer of the political subdivision in accordance with statute; or

(ii) if a chief financial officer is not appointed in accordance with statute, the individual designated as the chief financial officer by the governing body of the political subdivision.

(b) In designating a chief financial officer under this Subsection (2), the governing body shall designate the individual who has primary responsibility for preparing the annual financial report.

Enacted by Chapter 367, 2013 General Session

11-51-101. Title.

This chapter is known as the "Local Jurisdiction Related to Federally Managed Land Act."

Enacted by Chapter 342, 2013 General Session

11-51-102. Definitions.

As used in this chapter:

(1) "Chief executive officer" means:

(a) for a municipality:

(i) the mayor, if the municipality is operating under a form of municipal government other than the council-manager form of government; or

(ii) the city manager, if the municipality is operating under the council-manager form of government; or

(b) for a county:

(i) the chair of the county commission, if the county is operating under the county commission or expanded county commission form of government;

(ii) the county executive officer, if the county is operating under the county-executive council form of government; or

(iii) the county manager, if the county is operating under the council-manager form of government.

(2) "County sheriff" means an individual elected to the office of county sheriff in the state who meets the qualifications described in Section 17-22-1.5.

(3) "Federal agency" means the United States Bureau of Land Management or the United States Forest Service.

(4) "Federally managed land" means land that is managed by the United States Bureau of Land Management or the United States Forest Service.

(5) "Political subdivision" means a municipality or county.

Enacted by Chapter 342, 2013 General Session

11-51-103. Local jurisdiction related to federally managed land -- Written notice -- Mitigation action.

The authority of a chief executive officer of a political subdivision or county sheriff to exercise jurisdiction over federally managed land in the state that is encompassed by or adjacent to the political subdivision includes the following:

(1) if the action or inaction of a federal agency related to federally managed land adversely affects or constitutes an imminent threat to the health, safety, or welfare of the people of the political subdivision, the chief executive officer or county sheriff may provide written notice to the federal agency, which notice shall:

(a) be delivered to the federal agency by hand or by certified mail and a copy provided by certified mail to the governor, the state attorney general, and the state's Congressional delegation;

(b) include a detailed explanation of how the action or inaction of the federal agency related to federally managed land adversely affects or constitutes an imminent threat to the health, safety, or welfare of the people of the political subdivision;

(c) include a detailed description of the action the federal agency should take to mitigate the risk to the health, safety, or welfare of the people of the political subdivision; and

(d) provide a specific date by which time the federal agency should respond to the notice; and

(2) if after receiving notice as described in Subsection (1)(a), the federal agency does not respond by the date requested in the notice, or otherwise indicates that it is unwilling to take action to mitigate the risk to the health, safety, or welfare of the people of the political subdivision described in the notice, the chief executive officer or county sheriff may take action to mitigate the risk to the health, safety, or welfare of the people of the political subdivision.

Enacted by Chapter 342, 2013 General Session

11-52-101. Title.

This chapter is known as "Contingency Plans."

Enacted by Chapter 347, 2013 General Session

11-52-102. Definitions.

As used in this chapter:

(1) "Federal receipts" means the federal financial assistance, as defined in 31 U.S.C. Sec. 7501, that is reported as part of a single audit.

(2) "Political subdivision" means:

(a) a county, as defined in Section 17-50-101;

(b) a municipality, as defined in Section 10-1-104;

(c) a local district, as defined in Section 17B-1-102;

(d) a special service district, as defined in Section 17D-1-102;

(e) an interlocal entity, as defined in Section 11-13-103;

(f) a community development and renewal agency created under Title 17C, Limited Purpose Local Government Entities - Community Development and Renewal Agencies Act;

(g) a local building authority, as defined in Section 17D-2-102; or

(h) a conservation district, as defined in Section 17D-3-102.

(3) "Single audit" has the same meaning as defined in 31 U.S.C. Sec. 7501.

Enacted by Chapter 347, 2013 General Session

11-52-103. Developing and publishing a contingency plan.

A political subdivision that, during a fiscal year of the political subdivision, receives federal funds or federal receipts that comprise 10% or more of the political subdivision's annual budget shall, before the beginning of the next fiscal year:

(1) develop a contingency plan explaining how the political subdivision will operate in the event that the total amount of federal funds and federal receipts that it receives are reduced by 5% or more, but by less than 25%, in the next fiscal year;

(2) develop a contingency plan explaining how the political subdivision will operate in the event that the total amount of federal funds and federal receipts that it receives are reduced by 25% or more in the next fiscal year;

(3) submit a copy of the contingency plan to the state auditor; and

(4) publish the contingency plan on the political subdivision's website, if the political subdivision maintains a website.

Enacted by Chapter 347, 2013 General Session